



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing was convened in response to an application by the landlord for an Order of Possession due to unpaid rent, a Monetary Order to recover rental arrears, and late fees and inclusive of recovery of the filing fee associated with this application, and an order to retain the security deposit in partial satisfaction of the monetary claim.

I accept the landlord's evidence that despite the tenant having been served with the application for dispute resolution and notice of hearing by personal service on December 11, 2009 in accordance with Section 89 of the Residential Tenancy Act (the Act) the tenant did not participate in the conference call hearing. The landlord advised the tenant still resides in the rental unit

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on March 15, 2009. Rent in the amount of \$1300 is payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$650. The tenant originally failed to pay all rent in the month of June 2009 and began to accrue arrears in rent. On

December 04, 2009 the landlord served the tenant with a notice to end tenancy for non-payment of rent totalling \$3040. The tenant made a payment of \$600 on December 04, 2009. However, the tenant further failed to pay rent in the month of January 2010 in the amount of \$1300. The landlord is also claiming late fees of \$150 per month for 4 months and was advised that this is contrary to the Residential Tenancy Act (the Act), and as a result, I will not consider the landlord's portion of the claim requesting late fees. Therefore, the quantum of the landlord's relevant and compensable monetary claim is **\$3740**, inclusive of rent for January 2010.

The landlord is also seeking an Order of Possession effective as soon as possible.

Analysis

Based on the landlord's testimony I find that the tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The tenant has not paid the outstanding rent and has not applied for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice.

Based on the above facts I find that the landlord is entitled to an Order of Possession.

As for the monetary order, I find that the landlord has established a claim for **\$3740** in unpaid rent. The landlord is also entitled to recovery of the \$50 filing fee, for a total entitlement of **\$3790**

Conclusion

I grant an Order of Possession to the landlord, **effective 2 days from the day it is served upon the tenant**. The tenant must be served with this Order of Possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I order that the landlord retain the deposit and interest of \$650 in partial satisfaction of the claim and I grant the landlord an order under Section 67 of the Act for the balance

due of **\$3140**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: January 21, 2010
