



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The tenant also participated in the conference call hearing.

Issues(s) to be Decided

- Is the landlord entitled to an Order of Possession based on the 10 Day Notice to End Tenancy for Unpaid Rent? If not, is the landlord entitled to an Order of Possession based on the One Month Notice to End Tenancy for Cause for repeated late rent payments?
- Is the landlord entitled to recovery of rent for the months of December, 2009 and January, 2010?
- Is the landlord entitled to retain the security deposit to cover a portion of the outstanding rental arrears?

Background and Evidence

The landlord testified that the tenancy began on August 1, 2008. Rent in the amount of \$802.00 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 \$388.00. The tenant failed to pay rent in the month of December, 2009 and on December 7, 2009 the landlord served the tenant with a notice to end tenancy for non-

payment of rent. The tenant further failed to pay rent in the month of January, 2010. These facts were not disputed by the tenant.

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. 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.

Conclusion

Based on the above facts I find that the landlord is entitled to an order of possession. The tenant must be served with the 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.

As for the monetary order, I find that the landlord has established a claim for \$1,604.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee. I order that the landlord retain the deposit and interest of \$390.78 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1,263.22. 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 26, 2010.

Dispute Resolution Officer