

DECISION

Dispute Codes: OPR, MNR, MNSD and FF

Introduction

This application was brought by the landlord seeking an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent served in person on January 2, 2010. The landlord also sought a Monetary Order for unpaid rent and utilities and recovery of the filing fee for this proceeding, and authorization to retain the security deposit in set off against the balance owed.

At the commencement of the hearing, the landlord advised that the tenants had vacated the rental unit on or about February 14, 2010 and he withdrew the request for an Order of Possession.

Despite having been served with the Notice of Hearing, the tenants did not call in to the number provided to enable their participation in the telephone conference call hearing. Therefore, it proceeded in their absence.

Issues to be Decided

This application requires a decision on whether the landlord is entitled to an Order of Possession and a Monetary Order for unpaid rent and utilities and recovery of the filing fee, and authorization to retain the security deposit in set off.

Background and Evidence

According to evidence given by the landlord, this tenancy began on May 1, 2009. Rent was \$850 per month and the landlord holds a security deposit of \$425 paid on or about May 1, 2009.

During the hearing, the landlord gave evidence that the Notice to End Tenancy was served when the tenants had not paid rent for November and December, 2009 or for January 2010. In the interim, the tenants failed to pay the rent for February 2010.

In addition, the landlord claims \$920 for unpaid utilities for the entire duration of the tenancy, although he submitted no evidence or rental agreement in support of this part of the claim.

Analysis

In the absence of a written rental agreement and any other substantiating evidence, and taking into account that the landlord submitted no written demands to the tenants for unpaid utilities for nine months, I find that his part of the claim must be dismissed without leave to reapply.

However, including recovery of the filing fee for this proceeding, and authorization to retain the security deposit in set off against the balance owed, I find that the tenants owe to the landlord an amount calculated as follows:

November 2009 rent	\$ 850.00
December 2009 rent	850.00
January 2010 rent	850.00

February 2010 rent/loss of rent	850.00
Filing fee	50.00
Sub total	\$3,450.00
Less retained security deposit (no interest due)	- 425.00
TOTAL	\$3,025.00

Conclusion

In addition to authorization to retain the security deposit in set off, the landlord's copy of this decision is accompanied by a Monetary for \$3,025.00, enforceable through the Provincial Court of British Columbia, for service on the tenants.

February 18, 2010