

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 on December 9, 2009 by posting it on the tenant's door. The landlord also sought a Monetary Order for the unpaid rent, NSF fees, and recovery of the filing fee for this proceeding, and authorization to retain the security deposit in set off against the balance owed.

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 the unpaid rent, NSF fees and filing fee, and authorization to retain the security deposit in set off against the balance owed.

Background and Evidence

This tenancy began on or about January 1, 2004. Rent is \$875.62 per month including parking and the landlord holds a security deposit of \$287.50 paid on or about January 1, 2004.

During the hearing, the landlord gave uncontested evidence that the Notice to End Tenancy had been served when the tenant had a rent short fall from December 2009 of \$448.78.

While that balance was paid, the tenant's cheques for January and February 2010 were returned NSF and the tenant has a rent shortfall for the March rent of \$375.62.

Therefore, the landlord seeks a Monetary Order for the rent plus NSF fees for January and February plus the rent shortfall for March 2010.

Analysis

Section 46 of the *Act* provides that a landlord may issue a Notice to End Tenancy for unpaid rent on a day after the rent is due. The tenant may cancel the notice by paying the overdue rent or make application to dispute the notice within five days of receiving it.

In this instance, I find that rent remains in arrears and the tenant has not made application to dispute the notice.

Accordingly, I find that the landlord is entitled to an Order of Possession effective two days from service of it on the tenant.

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

January 2010 rent	\$875.62
NSF fee	25.00
February 2010 rent	875.62
NSF fee	25.00
March 2010 rent shortfall	375.62
Filing fee	50.00
Sub total	\$2,226.86
Less retained security deposit (No interest due)	- 287.50
Less interest (January 1, 2004 to date)	- 10.17
TOTAL	\$1,929.19

Conclusion

The landlord's copy of this decision is accompanied by an Order of Possession to take effect two days from service of it on the tenant.

In addition to authorization to retain the security deposit in set off, the landlord is also issued with a Monetary Order for \$1,929.19, enforceable through the Provincial Court of British Columbia, for service on the tenant.

March 29, 2010