

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 January 2, 2010. The landlord also sought a Monetary Order for the unpaid rent and recovery of the filing fee for this proceeding, and authorization to retain the security deposit in set off against the balance owed.

Despite having been served with the Notice of Hearing served in person on February 11, 2010, 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.

This matter was originally dealt with as a Direct Request Proceeding on February 8, 2010 on written submissions only but was adjourned to the present participatory hearing due to the need for clarification on the amount of rent outstanding.

At the commencement of the hearing, the landlord advised that the tenants had vacated on March 8, 2010 and an Order of Possession was no longer needed.

Issues to be Decided

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

Background and Evidence

This tenancy began on January 1, 2010. Rent was \$750 per month and the landlord holds a security deposit of \$362.50.

During the hearing, the landlord gave evidence that the Notice to End Tenancy had been served when the tenants had not paid the rent for January 2010.

In the interim, the January rent remains unpaid and the tenants paid no rent for February or March. The landlord was unable to find new tenants in March and therefore claims January rent, February rent and March rent and loss of rent.

Analysis

Section 26 of the *Act* provides that tenants must pay rent when it is due. Therefore, I find that the landlord is entitled to a Monetary Order for all of the unpaid rent up March 31, 2010.

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

January rent	\$ 725.00
February rent	725.00
March rent/loss of rent	725.00
Filing fee	<u>50.00</u>
Sub total	\$2,225.00
Less retained security deposit (No interest due)	<u>- 362.50</u>
TOTAL	\$1,862.50

Conclusion

In addition to authorization to retain the security deposit in set off, the landlord is also issued with a Monetary Order for \$1,862.50, enforceable through the Provincial Court of British Columbia, for service on the tenants.

March 23, 2010