

DECISION

Dispute Codes OPR, MNR, FF
 CNR, CNC

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a monetary order for unpaid rent as well as to recover the filing fee for this proceeding. The Tenant applied to cancel a Notice to End Tenancy for Unpaid Rent and a Notice to End Tenancy for Cause.

In a previous decision issued on April 1, 2010, the Landlord's application for an early end to the tenancy was granted and he was given an Order of Possession to take effect 48 hours after service of it on the Tenant. As of this hearing date, the Tenant had not applied for a Review of that Decision or Order. Consequently, I find that the Tenant's application to cancel the 2 Notices and the Landlord's application for an Order of Possession are unnecessary and they are dismissed without leave to reapply.

Issues(s) to be Decided

1. Are there arrears of rent and if so, how much?

Background and Evidence

This tenancy started on June 1, 2009. Rent was \$675.00 per month until January 1, 2010 when it was reduced to \$600.00 per month and was payable in advance on the 1st day of each month. The Tenant paid a security deposit of \$337.00. The Landlord said the Tenant moved out of the rental unit on April 14, 2010 without any notice, however the Tenant said he moved out on April 3, 2010.

The Landlord claims that the Tenant has arrears of rent and provided the following payment information which he said he keeps on a monthly basis:

<u>Month</u>	<u>Payment Due</u>	<u>Payment Made</u>	<u>Balance Owing</u>
August '09	\$675.00	\$310.00	\$365.00
September '09	\$675.00	\$500.00	\$175.00
October '09	\$675.00	\$150.00	\$525.00
November '09	\$675.00	\$675.00	\$0.00
December '09	\$675.00	\$750.00	(\$75.00)
January '10	\$600.00	\$0.00	\$600.00
February '10	\$600.00	\$550.00	\$50.00
March '10	\$600.00	\$0.00	<u>\$600.00</u>
TOTAL:			\$2,240.00

The Tenant said he disagreed with the Landlord's records. The Tenant said he paid rent by cheque 90% of the time but he did not provide any of his own records and did not say what amounts he disputed. When asked to clarify why he did not owe rent, the Tenant said he did not think he should owe anything because of the way he was treated by the Landlord during the tenancy.

Analysis

In the absence of any evidence from the Tenant to contradict the Landlord's records, I find on a balance of probabilities that there are rent arrears to March 31, 2010 in the amount of \$2,240.00. I also find that rent was not paid for April 2010 and therefore the Landlord is entitled to recover rent/loss of rental income for the period April 1 – 30, 2010 in the pro-rated amount of \$420.00 for a total unpaid rent of \$2,660.00.

As the Landlord has been successful on his application, I find that he is also entitled to recover the \$50.00 filing fee for this proceeding. I order him pursuant to s. 38(4) and s. 72 of the Act to keep the Tenant's security deposit in partial payment of the rent arrears. The Landlord will receive a monetary order for the balance owing of \$2,373.00.

Conclusion

The Tenant's application is dismissed without leave to reapply. A monetary order in the amount of **\$2,373.00** has been issued to the Landlord and a copy of it must be served on the Tenant. If the amount is not paid by the Tenant, the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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: April 21, 2010.

Dispute Resolution Officer