

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 April 30, 2010. The landlord also sought a Monetary Order for the unpaid rent, NSF fee, utilities, 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, the tenant did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, it proceeded in his absence.

At the commencement of the hearing, the landlord advised that the tenant had vacated the rental unit on May 14, 2010 but had not provided a forwarding address. Therefore, he withdrew the request for an Order of Possession.

Issues to be Decided

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

Background and Evidence

This tenancy began on September 1, 2008. Rent was \$960 per month plus utilities and the landlord holds a security deposit of \$480 paid on or about September 1, 2008.

During the hearing, the landlord gave evidence that the Notice to End Tenancy had been served after the tenant's rent cheque for April 2010 was returned NSF. In the interim, the April rent remained unpaid and the tenant did not pay the rent for May.

In addition, the landlord has since received billings for utilities and claims \$130 for the period to May 14, 2010.

Analysis

Section 26 of the *Act* requires that tenants must pay rent when it is due.

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 the tenant did not pay the rent within five days of receiving the notice and did not make application to dispute it.

Therefore, I 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 tenant owes the landlord an amount calculated as follows:

April 2010 rent	\$960.00
April rent NSF fee	25.00
May 2010 rent	960.00
Unpaid utilities	130.00
Filing fee	50.00
Sub total	\$2,125.00
Less retained security deposit	- 480.00
Less interest (September 1, 2008 to date)	- 2.40
TOTAL	\$1,642.60

Conclusion

In addition to authorization to retain the security deposit in set off, the landlord is also issued with a Monetary Order for **\$1,642.60**, enforceable through the Provincial Court of British Columbia, for service on the tenant.

June 24, 2010