

DECISION

Dispute Codes: MNR, MNDC and FF

Introduction

This application was brought by the landlord seeking a Monetary Order for unpaid rent and loss of rent, damage or loss under the rental agreement or legislation, and recovery of the filing fee for this proceeding.

In addition, the landlord advised that the tenant's failure to honour an Order of Possession issued at a previous hearing had necessitated him engaging a bailiff to conclude the tenancy. Therefore, the landlord requested that his application be amended to add bailiff and moving fees. I have exercised the discretion granted by section 64(3)(c) of the Act and amended the landlord's application accordingly.

Despite having been served with the Notice of Hearing sent by registered mail on March 13, 2010 to an address provided to the Dispute Resolution Officer and the landlord at the previous 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.

Issues to be Decided

This application requires a decision on whether the landlord is entitled to a Monetary Order for the unpaid rent, loss of rent, bailiff and moving fees and recovery of the filing fee for this proceeding.

Background and Evidence and Analysis

This tenancy began on February 1, 2009 and ended on or about March 12, 2010 when the tenant was evicted by the bailiff executing a Writ of Possession. Rent was \$400 per month and there was no security deposit.

The tenancy was the subject of a hearing on February 1, 2010 on the tenant's application to set aside a Notice to End Tenancy served on December 20, 2009 for unpaid rent. In the result, the Dispute Resolution Officer found the Notice to be lawful and valid and declined to set it aside. The Dispute Resolution Officer issued an Order of Possession on February 1, 2010 to take effect two days from service of it on the tenant.

As a matter of note, the Dispute Resolution Officer found that the landlord had not proven that the rent for July, August, and September of 2009 were not paid. However, she did find as fact that rent for October, November and December of 2009, and January of 2010 were not paid. The tenant made application for Review Consideration but the application was dismissed by a decision issued on February 17, 2010.

While the landlord includes the rent for July, August and September of 2009 in the present claim, the findings of the previous hearing are final and binding and I will not reconsider the rent for those months.

In the present hearing, the landlord makes claim that subsequent to the previous hearing, the tenant had a rent short fall of \$100 for February 2010, paid no rent for March 2010 and has made no payment on the previous arrears.

The landlord submitted an invoice from the bailiff for \$957.60 and an invoice from the moving company for \$354.22. I note that the moving fee is included in the bailiff's invoice.

Analysis

I find that the landlord is entitled to a Monetary Order for unpaid rent from October 2009 to March 2010 inclusive, except for February 2010 in which the landlord claims \$100 rent shortfall. I further find that the landlord is entitled to recover the cost of bailiff fees including moving costs in the total amount of \$957.60

Having found merit in the landlord's application, I find that he should recover the filing fee for this proceeding from the tenant.

In summary, find that the tenant owes to the landlord an amount calculated as follows:

October 2009 rent	\$ 400.00
November 2009 rent	400.00
December 2009 rent	400.00
January 2010 rent	400.00
February 2010 rent shortfall	100.00
March rent/loss of rent	400.00
Bailiff fees	957.60
Filing fee	50.00
TOTAL	\$3,107.60

Conclusion

The landlord's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia, for **\$3,107.60** for service on the tenant.

July 7, 2010