



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

DECISION

Dispute Codes: OPR, MNR, MNSD, 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 by posting on August 8, 2008. The landlord also sought a Monetary Order for the unpaid rent and filing fee for this proceeding, and authorization to retain the security deposit in set off against the balance owed.

Issue(s) to be Decided

This application requires a decision on whether the landlord is entitled to an Order of Possession and the effective date, and whether a Monetary Order is due, the amount, and if the filing fee and off setting security deposit should be included.

Background and Evidence

This tenancy began October 4, 2006. Rent is \$650 per month and the landlord holds a security deposit of \$325, paid on October 4, 2006.

During the hearing, the landlord gave evidence that the Notice to End Tenancy had been served when the tenant had incurred a \$300 shortfall on the August rent. While the tenant had made some payments for August and September, he remained in arrears by \$200 at the time of the hearing.

The tenant gave evidence that he had just recently obtained full time employment and gave the landlord assurance that the rent shortfall would be repaid by September 24, 2008 and that he fully anticipated there would be no further instances of late or partial rent.

The landlord stated that, if the rent shortfall and filing fee were paid by September 24, 2008 as promised, he would not proceed with the eviction. However, the landlord did request the orders be issued in the event the tenant was not able to keep the commitment.

Analysis

Section 46 of the *Act*, which deals with notice to end tenancy for unpaid rent, provides that a tenant may pay the overdue rent or make application for dispute resolution within five days of receiving the notice. If the tenant does neither, they are presumed to have accepted that the tenancy ends on the date stated on the notice. In this matter, the tenant has not paid the rent and has not made application to dispute the notice.

Therefore, the landlord requested, and I find he is entitled to, an Order of Possession effective two days from service of it on the tenant.

I further find that the landlord is entitled to a Monetary Order for the unpaid rent and filing fee for this proceeding and authorization to retain the security deposit in set off as follows:

Security deposit	\$325.00
Interest on security deposit (Oct. 4/06 to date)	<u>8.84</u>
Sub total	\$333.84
Less September rent shortfall retained by landlord	- 200.00
Less filing fee retained by landlord	- <u>50.00</u>
TOTAL (Balance of security deposit remaining)	\$ 83.84

Conclusion

Thus, the landlord's copy of this decision is accompanied by an Order of Possession effective two days from service of it on the tenant, and the landlord is authorized to retain \$250 from the tenant's security deposit.

The Order of Possession is enforceable through the Supreme Court of British Columbia.

September 19, 2008
