



Dispute Resolution Services

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

Decision

Dispute Codes: MNR MNSD OPR FF

Introduction

This application was brought by the landlord seeking an Order of Possession pursuant to a Notice to End Tenancy for unpaid rent served September 4, 2008 by posting. The landlord also sought a Monetary Order for the unpaid rent, and filing fee, 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 August 1, 2007. Rent is \$800 per month, \$500 of which is subsidy, and the landlord holds a security deposit of \$400 paid on August 1, 2007.

During the hearing, the landlord gave evidence that the notice to end tenancy had been served when the tenant failed to pay the rent for September 2008 in full. While the October rent was paid, the \$300 shortfall remains for September rent.

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 October 31, 2008. 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:

September rent shortfall	\$300.00
Filing fee	<u>50.00</u>
Sub total	\$350.00
Less retained security deposit	- 400.00
Less interest (August 1, 2007 to date)	<u>- 7.54</u>
TOTAL (balance of security deposit remaining)	(\$ 57.54)

Conclusion

Thus, the landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, effective at 1 p.m. on October 31, 2008.

In addition, the landlord is hereby authorized to retain \$350 of the security deposit in full satisfaction of the outstanding rent for September 2008 leaving a balance of \$57.54.

Dated: October 15, 2008