



Dispute Resolution Services

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

DECISION AND REASONS

Dispute Codes: OPR, OPC, MNR, MNSD, & FF

Introduction:

This hearing dealt with the landlord's application seeking an Order of Possession and a monetary claim due to two Notices to End Tenancy served upon the tenant. Although the tenant was served with notice of this hearing and application by registered mail, he did not appear. I proceeded with the hearing in the tenant's absence.

Issues to be Determined:

Is the landlord entitled to an Order of Possession? Is the landlord entitled to a monetary claim due to the tenant's failure to pay rent?

Background and Evidence:

This tenancy began on November 1, 2008 for the monthly rent of \$1,250.00 and a security deposit of \$625.00 paid on October 16, 2008. The tenant received the first month's rent free as part of a promotion by the landlord to attract perspective tenants.

The landlord believes that the tenant has sublet the rental unit without written consent. The landlord stated that she did not see or have contact with the tenant from approximately November 8, 2008 to December 31, 2008. The tenant failed to pay rent on December 1, 2008.

The landlord served two Notices to End Tenancy. A one month Notice to End Tenancy for cause was served on November 20, 2008 and a 10 day Notice to End Tenancy due to non-payment of rent was served on December 2, 2008. An occupant of the rental unit paid the rent for December 2008 on December 14, 2008. During these times the landlord observed several different people in the rental unit who were unknown.

The landlord spoke with the tenant on December 31, 2008 at which point the tenant indicated that he would not be vacating the rental unit. The tenant did not pay the rent on January 1, 2009 although he indicated he would.

The landlord requests an Order of Possession and a monetary claim due to non-payment of the rent for January 2009.

Analysis:

I accept that an adult at the rental unit was served with the one month Notice to End Tenancy for cause on November 20, 2008. The tenant had 10 days to dispute the notice or be conclusively presumed to have accepted the end of the tenancy pursuant to section 47(5) of the *Act*.

On this basis I find that the landlord is entitled to an Order of Possession effective **two (2) days** after it is served upon the tenant as the effective date of the notice was December 31, 2008. This Order may be filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I also find that the landlord has established a monetary claim for the sum of \$1,300.00 comprised of the outstanding rent for January 2009 plus the recovery of the \$50.00 filling fee paid by the landlord for this application. I Order that the landlord may retain the tenant's security deposit plus interest of \$626.97 in partial satisfaction of this claim.

I grant the landlord a monetary Order for the remaining balance of **\$673.03**. This Order may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Conclusion:

The landlord's application for an Order of Possession and a monetary Order is granted.

Dated January 09, 2009.

Dispute Resolution Officer