



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

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 by posting on the tenant's door on January 5, 2009. The landlord also sought a Monetary Order for the unpaid rent, late fees and filing fee for this proceeding..

In addition, I exercised the discretion granted by section 64(3)(c) of the *Act* to permit the landlord to amend his application to request authorization to retain the security deposit in set off against the balance owed.

At the commencement of the hearing, the landlord advised that the tenant had moved out on February 6th or 7th of 2009 without giving notice or returning the keys. Therefore, he withdrew the request for the Order of Possession.

Despite being served with the Notice of Hearing sent by registered mail on January 30, 2009, 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.

Issue(s) to be Decided

This application requires a decision on whether the landlord is entitled to a Monetary Order for rent, loss of rent and late fees, and whether the filing fee may be retained in set off.

Background and Evidence

This tenancy began November 30, 2008. Rent was \$700 per month and the landlord holds a security deposit of \$350 paid on November 30, 2008.

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 January 2009. In the interim, the tenant did not paid rent for February. He stated that he had found a new tenant for March 1, 2009.

Therefore, the landlord asked for a Monetary Order for the rent for January, rent and loss of rent for February and late fees of \$20 for each month as per the rental agreement.

Analysis

I find that the landlord is entitled to a Monetary Order for the rent and loss of rent as requested, late fees, the filing fee for this proceeding and authorization to retain the security deposit in set off as follows:

January rent	\$700.00
February rent	700.00
Late fees (\$20 x 2 months)	40.00
Filing fee	<u>50.00</u>
Sub total	\$1,490.00
Less retained security deposit	- 350.00
Less interest (November 30, 2008 to date)	- <u>.77</u>
TOTAL	\$1,139.23

Conclusion

Thus, the landlord's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia, for \$1,139.23 for service on the tenant.

March 13, 2009.

Dispute Resolution Officer