



Dispute Resolution Services

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

DECISION

Dispute Codes: OPL, MNR, MNSD and FF

Introduction

This application was brought by the landlord on April 1, 2009 seeking an Order of Possession pursuant to a two-month Notice to End Tenancy for landlord use served in person on January 31, 2009. 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.

As the tenant did not move out on April 1, 2009 as stipulated in the Notice to End, I have exercised my discretion under section 64(3)(c) of the *Act* to amend the application to include a claim for March rent in addition to the February rent already claimed.

Despite having been served with the Notice of the Hearing in person on April 1, 2009, the tenant did not call in to the number provided to enable her participation in the telephone conference call hearing. Therefore, it proceeded in her absence.

Issues to be Decided

This application requires a decision on whether the landlord is entitled to an Order of Possession and the effective date, a Monetary Order for the unpaid rent and filing fee for this proceeding, and authorization to retain the security deposit in set off.

Background and Evidence

This tenancy began on December 1, 2002. Rent is \$625 per month and the landlord holds a security deposit of \$325 paid on November 24, 2002.

During the hearing, the landlord gave evidence that the Notice to End Tenancy was served as she needed the rental unit to house her daughter, a university student.

She stated that, while the notice to end set an end of tenancy date of April 1, 2009, the tenant had made no preparations to honour that date and was, in fact, in the process of moving at the time of the hearing on April 28, 2008.

The landlord gave further evidence that the tenant had paid no rent since the notice was issued. As section 50 of the *Act* grants the tenant the last month's rent free, the landlord requested a Monetary Order for the unpaid rent for February and March.

Analysis

Section 49 of the *Act*, which deals with notice to end tenancy for landlord use, provides that a tenant may make application for dispute resolution to contest it within fifteen days of receiving the notice.

If the tenant does not make application, 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:

February rent	\$ 625.00
March rent	625.00
April rent (Not due as per section 50)	00.00
Filing fee	<u>50.00</u>
Sub total	\$1,300.00
Less retained security deposit	- 325.00
Less interest (Nov. 24, 2002 to date)	- 11.51
TOTAL	\$ 963.49

Conclusion

Thus, the landlords' copy of this decision is accompanied by an Order of Possession effective two days from service of it on the tenant and a Monetary Order for \$963.49.

The Order of Possession is enforceable through the Supreme Court of British Columbia, and the Monetary Order is enforceable through Provincial Court of British Columbia.

April 28, 2009

Dispute Resolution Officer