

DECISION

Dispute Codes: MNR, MNDC and FF

Introduction

This application was brought by the landlord seeking a Monetary Order for unpaid rent, damage or loss under the legislation or rental agreement and recovery of the filing fee for this proceeding.

While the landlord had originally applied for an Order of Possession, that order was granted during a hearing on December 21, 2009 on the tenant's application to set aside a Notice to End Tenancy for unpaid rent. The tenants failed to appear and the landlord requested the Order of Possession pursuant to section 55(1) of the *Act*.

The landlord's application was initially dealt with as a Direct Request proceeding on December 1, 2009 but was adjourned to the present conference call hearing for want of clarification regarding the amount of the monetary claim .

Despite having been served with the Notice of Hearing, the tenants did not call in to the number provided to enable their participation in the telephone conference call hearing. Therefore, it proceeded in their absence.

Issues to be Decided

This application requires a decision on whether the landlord is entitled to a Monetary Order for unpaid rent and loss or damage under the legislation or rental agreement.

Background and Evidence

This tenancy began on November 1, 2009, although the tenants took possession on October 21, 2009. Rent was \$1,500 per month and the security deposit was to be \$750.

The tenancy ended on January 6, 2010 when a Court Bailiff enforced a Writ of Possession obtained following the Order of Possession issued on December 21, 2009 which was effective two days from service of it on the tenants.

During the hearing, the landlord's agent gave evidence that the Notice to End Tenancy of November 7, 2009 had been served when the tenant's first rent cheques and security deposit cheque were returned NSF.

In the interim, she stated that the tenants did not pay rent for December 2009 or for January 2010. The landlord claims, therefore, a Monetary Order for November and December rent and for January rent/loss of rent, the latter due to the tenants' refusal to honour the Order of Possession.

In addition, the landlord claims \$1,805 in bailiff fees and recovery of the \$50 filing fee for this proceeding.

Analysis

Section 67 of the Act provides that, "...if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party."

Accordingly, I find that the tenants owe to the landlord an amount calculated as follows:

November 2009 rent	\$1,500.00
December 2009 rent	1,500.00
January 2010 rent/loss of rent	1,500.00
Bailiff fees	1,805.00
Filing fee	50.00
TOTAL	\$6,355.00

Conclusion

The landlord's copy of this decision is accompanied by a Monetary Order for \$6,355.00, enforceable through the Provincial Court of British Columbia, for service on the tenants.

As a matter of note, the landlord's agent requested an Order for Substitute Service under section 71 of the *Act*. However, to grant such an Order, a Dispute Resolution Officer must take into account the landlord's efforts to effect service and the applicant's proposed method and probability of it succeeding. Therefore, the landlord is advised to make such application when able to provide the required information.

January 12, 2010.