

Dispute Resolution Services

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

Decision

Dispute Codes: MNR OPR FF

Introduction

This hearing dealt with an application by the landlord for an order of possession due to unpaid rent, a monetary order to recover rental arrears, the security deposit and inclusive of recovery of the filing fee associated with this application.

Both parties were represented in this hearing and each supplied sworn testimony.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the landlord entitled to an order of possession?

Is the landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on September 27, 2008 with rent due as of October 1, 2008. Rent in the amount of \$1200 is payable in advance on the first day of each month as well as all utilities. At the outset of the tenancy, the landlord collected a cheque for the security deposit from the tenant in the amount of \$600 as well as a cheque for rent in the amount of \$1200. Both cheques were returned for non-sufficient funds. The tenants failed to pay rent in the months of October and November 2008 and on November 17, 2008 the landlord served the tenant with a notice to end tenancy for non-payment of

rent by November 27, 2008. The tenant further failed to pay rent in the month of December 2008. To date the landlord has paid utilities for the rental unit supplied by BC Hydro and Terasen Gas.

The tenant is still residing in the rental unit as of this hearing date. Since the onset of the tenancy, both parties agree there has not been any money paid by the tenant to the landlord. During the hearing it was stated by the tenant that they are in the process of vacating the rental unit and will finalize their move on Sunday, December 14th, 2008.

There is no controversy between the parties as to unpaid rent of **\$3600** and the cumulative of unpaid utilities at **\$217.36**. The tenant disputes the landlord's claim of the security deposit at this stage given that the tenant is now vacating the rental unit.

Analysis

Based on the sworn testimony by the tenant and the landlord I find that the tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid.

The tenant has not paid the outstanding rent and does not dispute this debt to the landlord or the demise of the tenancy.

Based on the above facts I find that the landlord is entitled to an order of possession.

As for the monetary order, I find that the landlord has established a claim for **\$3600** in unpaid rent and **\$217.36** in unpaid utilities. With the tenancy ending I find the landlord's claim for the security deposit is moot. I dismiss this portion of the landlord's claim with leave to reapply, if necessary, for costs revealed by an end of tenancy condition inspection in compliance with the requirements of section 35 of the Residential Tenancy Act.

The landlord is entitled to recovery of the **\$50.00** filing fee.

Conclusion

I grant an order of possession to the landlord. The tenant must be served with this order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I grant the landlord an order under section 67 for the monetary amounts in satisfaction of this application and claim in the amount of **\$3867.36**. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated: December 12, 2008