



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession, a Monetary Order to recover unpaid rent and utilities, an Order to keep all or part of the security deposit and a Monetary Order to recover the filing fee.

Service of the hearing documents was done in accordance with section 89 of the *Act*, and were hand delivered to the tenant on April 12, 2009.

Both parties appeared, gave their testimony, were provided the opportunity to present their evidence orally, in written form, documentary form, to cross-examine the other party, and make submissions to me.

Issues(s) to be Decided

The issues to be decided based on the testimony and the evidence are:

- Is the landlord entitled to an Order of Possession?
- Is the landlord entitled to a monetary order for unpaid rent and utilities?
- Is the Landlord entitled to keep all or part of the security deposit and interest?
- Is the landlord entitled to a Monetary Order to recover the filing fee?

Background and Evidence

The tenancy started on January 15, 2009 but the tenant did not take over the rental unit until January 23, 2009 when she paid her rent and security deposit. The tenant did not pay rent for March and received a 10 day Notice for Unpaid Rent at that time. The tenant sent the landlord a letter about some repairs and work to be done in the rental unit and the landlord arranged for their maintenance man to carry out some work at the rental unit. The landlord and tenant came to an agreement about the outstanding rent

and agreed that it could be paid in instalments at \$200.00 over a 6 month period. The landlord withdrew the 10 day Notice.

On April 01, 2009 the tenant did not pay the rent and on April 3, 2009 the landlord served another 10 Day Notice for Unpaid Rent and Utilities. The tenant disputed the first utility bill which was for utilities used in December 2008 before she moved into the rental unit. She stated that she did not receive an updated utility bill until she received an eviction notice. The amount of utilities owed was worked out by the landlords' accountant based upon the amount of days the tenant was renting the unit. The tenant does not dispute the money owed by her to the landlord.

Analysis

Order of Possession – I accept that the tenant was served the 10 Day Notice to End Tenancy for unpaid rent, pursuant to section 88 of the *Residential Tenancy Act*. The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the rent nor apply to dispute the Notice to End Tenancy within five days.

Based on the foregoing, I find that the tenant is conclusively presumed, under section 46(5) of the Act, to have accepted that the tenancy ended on the effective date of the Notice and grant the landlord an order of possession.

Monetary Order- I find that the tenant has not paid rent for March of \$1,200.00 and owes \$500.00 for April's rent. I find that the tenant owes utilities to the amount of \$367.72. The landlord is entitled to recover the unpaid rent and utilities from the tenant.

Security Deposit- I find that the landlord is entitled to use the security deposit and any accrued interest in partial payment towards rent owed by the tenant.

Recovery of the Filing Fee - \$50 – I find that the landlord has succeeded and is entitled to recover the filing fee from the tenant.



Dispute Resolution Services

Page: 3

Residential Tenancy Branch
Ministry of Housing and Social Development

Conclusion

The landlord has been granted an Order of Possession that is effective on April 24, 2009. This order must be served on the tenant, once served; this Order can be filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

The landlord has been granted a Monetary Order this consists of:

Unpaid rent	\$1,700.00
Recovery of the filing fee	\$50.00
Less security deposit	-\$600.00
Total	\$1,517.72

This order must be served on the tenant, once served; this Order can be filed with the Provincial Court of British Columbia and enforced as an Order of that Court.

The landlord's copy of this decision is accompanied by the Order of Possession and Monetary Order which are to be served upon the tenant.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: April 20, 2009.

Dispute Resolution Officer