



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent, for loss or damage under the Act or tenancy agreement and to recover the filing fee for this proceeding. The Landlord also applied to keep all or part of the security deposit.

The Landlord served the Tenant on April 08, 2009 with a copy of the Application and Notice of Hearing. I find that the Tenant was properly served pursuant to s. 89 of the *Act* with notice of this hearing. The hearing proceeded in the Tenants absence.

Issues(s) to be Decided

- Whether the Landlord is entitled to an Order of Possession?
- Is there outstanding rent owed to the Landlord?
- Is the Landlord entitled to keep all or part of the security deposit and interest?
- Is the Landlord entitled to a Monetary Order for loss of income?
- Is the Landlord entitled to recover filing fees from the tenant for the cost of the application?

Background and Evidence

This tenancy started on October 01, 2008 although the Tenant did not move into the rental unit until around October 10, 2008. A security deposit of \$385.00 was paid on

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October 01, 2008. Rent was \$770.00 due on the 1st of each month. The Landlord testifies that the Tenant has been repeatedly late with his rent and now owes rent for February, March and April, 2009 to the sum of \$2310.00. The Landlord has also requested a Monetary Order for loss of income for May, 2009 as she will have to get the rental unit advertised in order to re-rent it.

The landlord has requested to keep the Tenants security deposit in partial payment towards the outstanding rent owed and to recover her filing fee for the cost of these proceedings.

Analysis

In the absence of any evidence from the Tenant, I find that the Landlord is entitled to recover February, March and April rent arrears of \$2310.00. I also find, pursuant to s. 67 of the *Act*, that the Landlord is entitled to recover a loss of rental income for May, 2009 to the amount of \$770.00. As the Landlord has been successful in this matter, she is also entitled to recover her \$50.00 filing fee for this proceeding.

I order the Landlord pursuant to s. 38(4) of the *Act* to keep the Tenant's security deposit in partial payment of the rent arrears. The Landlord will receive a monetary order for the balance owing as follows:

| | |
|--|------------------|
| Unpaid rent for February, March, April | \$2310.00 |
| Filing fee | \$50.00 |
| Less security deposit and accrued interest | (-\$386.45) |
| Total | \$2743.55 |



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Conclusion

An order of Possession has been issued to the Landlord. A copy of the Orders must be served on the Tenant and the tenant must vacate the rental unit **two days** after service. The Order of Possession may be enforced in the Supreme Court of British Columbia.

A Monetary order in the amount of **\$2743.55** has been issued to the Landlord and a copy of it must be served on the Tenant. If the amount of the order is not paid by the Tenant, the Order may be filed in the Provincial (Small Claims) Court of British Columbia and enforced as an order of that court.

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 29, 2009.

Dispute Resolution Officer