



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, an Order to keep all or part of the security deposit and a Monetary Order to recover the filing fee.

The Landlord served the Tenant by registered mail on April 15, 2009 with a copy of the Application and Notice of Hearing. The tenant did not collect the registered mail. However, it is still deemed to have been served five days after posting. I find that the Tenant was properly served pursuant to s. 89 of the Act with notice of this hearing and the hearing proceeded in the Tenants absence.

The Landlord stated at the outset that the tenant has abandoned the rental unit. There has been no evidence of the tenant having been at the unit for two months and most of the tenants personal belongs and furniture have been removed by the tenant. However, the landlord would still like an Order of Possession so he can enter the unit and remove what is left of the tenants belongs which he intends to store in the basement for a minimum of six months.

The landlord appeared, and was provided the opportunity to present his evidence, in written form, documentary form and make submissions to me.

Issues(s) to be Decided

- Has the tenant abandoned the rental unit?
- Is the landlord entitled to an Order of Possession?
- Are there arrears of rent and if so, how much?
- Is the landlord entitled to keep all or part of the security deposit and interest?
- Whether the landlord is entitled to a Monetary Order to recover the filing fee?

Background and Evidence

This tenancy began on February 01, 2006 and ended some time between March and April, 2009. Rent was \$950.00 per month payable on the 1st of each month. The tenants company was paying the rent for the tenant but the landlord did not receive any payments for January, February, March, April or May, 2009. He spoke to the tenants company and they did send the landlord a cheque on May 05, 2009 for the outstanding rent for January, February and March, 2009. The tenants company told the landlord that the tenant no longer worked for the company. The landlord has not received any outstanding rent for April and May, 2009. The landlord served the tenant with a 10 Day Notice to End Tenancy for unpaid rent on March 16, 2009 and posted this to the tenants' door.

The landlord testifies that no one has seen the tenant at the rental unit for two months. The landlord entered the unit and found the tenant had removed a large proportion of his belongs and personal effects. The landlord believes the tenant has abandoned the rental unit.

Analysis

The Residential tenancy Regulations Part 5 state that:

Abandonment of personal property

24 (1) A landlord may consider that a tenant has abandoned personal property if

(b) subject to subsection (2), the tenant leaves the personal property on residential property

(i) that, for a continuous period of one month, the tenant has not ordinarily occupied and for which he or she has not paid rent, or

(ii) from which the tenant has removed substantially all of his or her personal property.

Subject to this I find that the tenant has abandoned his personal property and has not responded to the 10 Day Notice to End Tenancy for unpaid rent. Therefore, I uphold the landlords' application for an Order of Possession.

The tenants company was paying his rent. However the tenant had signed a tenancy agreement with the landlord which made the responsibility for the payment of rent to be the tenants. When his employment ended the rent should have been paid by the tenant. Therefore I find that the tenant owes rent to the landlord for April and May, 2009 of \$1,900.00. I Order the landlord to withhold the tenants security deposit in partial payment towards the rent arrears.



Dispute Resolution Services

Page: 4

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As the landlord has been successful in this matter he is entitled to recover the \$50.00 for the filing fee for these proceedings.

The landlord is entitled to a Monetary Order for the following:

Outstanding rent	\$1,900.00
Less security deposit and accrued interest	(-\$491.61)
Total	\$1,458.39

Conclusion

An Order of Possession has been issued to the landlord. A copy of the Orders must be served on the tenant and the landlord can take over 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 **\$1,458.39** 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: May 15, 2009.

Dispute Resolution Officer