

Dispute Resolution Services

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

DECISION

Dispute Codes:

OPR, MNR, MNSD, FF

Introduction

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*.

This hearing was convened in response to an application by the landlord for an Order of Possession due to unpaid rent, a Monetary Order to recover rental arrears and inclusive of recovery of the filing fee associated with this application, and an order to retain the security deposit in partial satisfaction of the monetary claim.

Both, the landlord and the tenant's brother appeared in the hearing and were given an opportunity to participate and make submissions. The tenant's brother was amenable to help facilitate the outcome of this hearing and will be in communication with the landlord's representative directly.

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 June 12, 2004. Rent in the amount of \$936 is payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$450. The tenant has failed to pay the parking fee since July 2008, failed to pay all the rent in the month of January 2009 (-\$280) and did not pay any rent for the months of February, March, or

April, 2009. On April 28, 2009 the landlord personally served the tenant with a notice to end tenancy for non-payment of rent. The tenant made a payment of \$600 towards all arrears on April 29, 2009. The tenant then further failed to pay rent in the month of May and June 2009. The landlord is not seeking rent for June 2009. The quantum of the landlord's monetary claim for is **\$3644**.

The tenant's representative heard and did not dispute the landlord's claims.

The landlord is seeking an Order of Possession effective as soon as possible, to enable the landlord to begin any remediation of the rental unit and rent it out again to stem further revenue losses. The landlord testified they are willing to work with the tenant, and the tenant's representatives to facilitate as seamless a transition as they are able.

Analysis

Based on the undisputed testimony of 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 has not applied for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice.

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 **\$3644** in unpaid rent and parking fees. The landlord is also entitled to recovery of the \$50 filing fee, for a total entitlement of **\$3694**.

Conclusion

I grant an Order of Possession to the landlord effective two (2) days from the day it is served on the tenant. 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 order that the landlord retain the deposit and accrued interest of \$465.93 in partial satisfaction of the monetary claim and I grant the landlord an order under section 67 for

the balance due of **\$3228.07**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated June 09, 2009