



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, OPC, MND, MNR, 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 for damages to the rental unit, site or property 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 sent to the tenant by registered mail on May 21, 2009. The hearing package was not collected by the tenant. Pursuant to section 90 of the *Act* the documents are deemed to have been served on the fifth day after mailing. The hearing proceeded in the tenants' absence.

The agent for the landlord appeared, gave affirmed testimony, was provided the opportunity to present her evidence orally, in written form, documentary form and make submissions to me. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

First of all it is my decision that I will not deal with all the issues that the applicant has put on the application such as the Monetary Order for Damages as it is unrelated and premature to the main issues.

I therefore will deal with her application for an Order of Possession for unpaid rent and for cause; to recover unpaid rent and to recover the filing fee and I dismiss the remaining unrelated dispute with liberty to re-apply.

Issues(s) to be Decided

- Are there arrears of rent and if so, how much?
- Whether the landlord is entitled to an Order of Possession?
- Whether the landlord is entitled to a Monetary Order to recover the filing fee?
- Was a valid One Month Notice to end tenancy for cause properly served on the tenant?

Background and Evidence

This tenancy started on January 01, 2005. This is a month to month tenancy and rent is now \$1,200.00 per month payable on the first of each month. This was a subsidized rental unit. The tenant failed to produce the required income review documentation when requested to do so in December 2008 and subsequently her rent reverted to the original amount of \$1,200.00 without the subsidy.

The landlord testifies that the tenant has been repeatedly late with her rental payments and numerous reminders have been sent. The landlord requested the tenant to provide them with the required information to enable them to continue giving her subsidized rent. On December 01, 2008 the tenant received a 3rd and final Notice to provide this information. As this did not occur her rent reverted to \$1,200.00 on January 01, 2009. The tenant owes rent for December, 2008 of \$332.50. In January and February 2009 she paid the subsidized amount of \$575.00 and owes a further \$625.00 for these months. The tenant has failed to pay any rent for March, April or May 2009.

The landlord calculated the figures that the tenant owes on the fact that she was served a Notice to End tenancy with a date to leave the property on May 05, 2009. This was extended due to the tenants' daughter being admitted to hospital to May 15, 2009. The

tenant failed to vacate the property on this date and subsequently the total figure she now owes for rent to the end of June is \$5,182.50.

Analysis

I find that the One Month Notice to end tenancy for cause is upheld. The tenant has failed to provide the relevant documentation for her income review to enable her to continue receiving a subsidized rent pursuant to 49.1(2) of the Act. Therefore, her rent increased to \$1200.00 per month. I find that the tenant is in arrears to the amount of \$5,182.50 and the landlords' application for a Monetary Order is upheld.

Order of Possession – I accept that the tenant was served the One Month Notice to End Tenancy for being repeatedly late in paying her rent and for a breach of a material term of the tenancy agreement which was not corrected within a reasonable time after written notice to do so, pursuant to section 49(1)(b) and 49.1(2) of the *Residential Tenancy Act*. The Notice states that the tenant had 10 days to Dispute the Notice or the tenancy would end. The tenant did not apply to dispute the Notice to End Tenancy within 10 days.

Based on the foregoing, I find that the tenant is conclusively presumed, under section 47(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.

As the landlord has been successful with their application I find they are entitled to recover the \$50.00 filing fee from the tenant for the cost of this application. The landlord will be issued with a Monetary Order for the following amount:

Outstanding rent arrears	\$5,182.50
Filing Fee	\$50.00



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Total amount owed to the landlord **\$5,232.50**

Conclusion

A Monetary Order in the amount of **\$\$5,232.50** 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.

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 **72 hours** after service. The Order of Possession may be enforced in the Supreme Court of British Columbia.

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: June 29, 2009.

Dispute Resolution Officer