

DECISION

Dispute Codes OPR, MND, MNR, MNSD, FF, ET, O

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession pursuant to sections 55 and 56;
- a monetary order for unpaid rent or damage to the rental premises pursuant to section 67;
- authorization to retain all or a portion of the tenants' security deposit pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

The male tenant (the tenant) and the landlord attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions. The landlord's agent testified that she posted the Ten Day Notice to End Tenancy for Unpaid Rent on the tenants' door on June 8, 2010. The tenant confirmed that he received this notice. The landlord's agent testified that she personally served the tenant with the landlord's application for dispute resolution on June 21, 2010. The tenant confirmed that he was served in this manner by the landlord's agent. I am satisfied that the landlord duly served the notice and the application for dispute resolution in accordance with the *Act*.

After the landlord served the original application to the tenant on June 21, 2010, the landlord amended his application to include additional unpaid rent that has accumulated since that date. The landlord increased his application for a monetary order from \$5,000.00 to \$8,200.00 to reflect non-payment of rent in July and August 2010. The tenant said that he was aware of the landlord's intention to seek recovery of unpaid rent for July and August 2010.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession? Is the landlord entitled to a monetary award for unpaid rent? Is the landlord entitled to retain the tenants' security deposit in partial satisfaction of this monetary award? Is the landlord entitled to recover his filing fee for this application from the tenants?

Background and Evidence

The tenant testified that this tenancy commenced on August 1, 2009 by way of a month-to-month lease. The parties in attendance agreed that rent was set at \$1,600.00 per month, payable on the first of each month. The tenants paid an \$800.00 security deposit when they moved into the rental premises, which the landlord continues to hold plus interest.

The landlord testified that the tenants paid \$600.00 in rent for March 2010 and have not paid anything in rent since then. The landlord also entered into evidence a notice that he has had to pay by-law fines from the municipality arising out of the tenants' occupancy of the rental premises. In total, the landlord asked for a monetary order in the amount of \$8,200.00. The tenant said that he thought that he paid some of his rent in March and April 2010, but had no figures or receipts to confirm these payments. The tenant confirmed that he is many months behind in his rent, but believed that he owed the landlord \$7,600.00 and not the \$8,200.00 claimed by the landlord. He provided no evidence or details to support his assertion.

Analysis

Order of Possession

The landlord testified that the tenants did not pay the outstanding rent within five days of receiving the June 8, 2010 notice. The tenants have not made application for dispute resolution pursuant to section 46(4) of the *Act* within five days of having been deemed to have received the landlord's June 8 notice to end their tenancy. The tenants' failure

to take either of these actions has ended their tenancy. As they have not vacated the rental premises, I find the landlord is entitled to a 2 day Order of Possession. I am attaching an Order of Possession which must be served on the tenants.

Monetary Award

I accept the landlord's testimony that the landlord is owed at least the \$8,200.00 he is seeking in this application. I note that the outstanding unpaid rent from April 1, 2010 until August 2010 is \$8,000.00. The landlord also testified that there was additional unpaid rent and fines that he has had to pay as a result of this tenancy.

I grant the landlord a monetary award in the amount of \$8,200.00 for unpaid rent. I allow the landlord to retain the tenants' security deposit plus interest in partial satisfaction of this award. No interest is payable over this period. Since the landlord has been successful in his application, I authorize the landlord to recover his filing fee for this application from the tenants.

Conclusion

I grant the landlord a 2 Day Order of Possession. If these premises are not vacated within the two days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

I grant a monetary order in the landlord's favour in the following terms.

Item	Amount
Unpaid Rent	\$8,200.00
Less Security Deposit	-800.00
Recovery of Filing Fee for this application	50.00
Total Monetary Award	\$7,450.00

The landlord is provided with these Orders in the above terms and the tenant must be served with a copy of these Orders as soon as possible. Should the tenant fail to

comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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*.