

DECISION

Dispute Codes OPC, MND, MNR, MNSD, FF

Introduction

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

- an Order of Possession pursuant to section 55;
- a monetary order for unpaid rent and compensation for loss or damage under the *Act* pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit pursuant to section 38 in partial satisfaction of the monetary order requested; and
- authorization to recover the filing fees for this application from the tenant pursuant to section 72.

The tenant did not attend the hearing. The landlord attended and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord testified that he posted the One Month Notice to End Tenancy for Cause on the tenant's door on May 27, 2010. He said that he sent her the application for dispute resolution package by registered mail and on July 15, 2010 hand delivered that application package to her. I am satisfied that the landlord served notice of this application for dispute resolution in accordance with the *Act*.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession? Is the landlord entitled to a monetary order for unpaid rent and damage or loss to the rental premises? Is the landlord entitled to recover all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested? Is the landlord entitled to recover the filing fees for this application from the tenant?

Background and Evidence

The landlord testified that the tenant commenced a one-year fixed term tenancy on February 1, 2010. Rent was set at \$1,000.00 per month. He said that he continues to hold the tenant's \$500.00 security deposit paid on or about February 8, 2010.

He testified that he issued the tenant the One Month Notice to End Tenancy for Cause for the following reasons cited in that Notice:

- *Tenant or a person permitted on the property by the tenant has:*
 - significantly interfered with or unreasonably disturbed another occupant or the landlord (smoking pot, walking on roof);*
- *Tenant has engaged in illegal activity that has, or is likely to:*
 - adversely affect the quiet enjoyment, security safety or physical well-being of another occupant or the landlord...*

He testified that the tenant had noisy parties on the premises that led to a number of police calls and arrests. He said that the tenants smoked cigarettes and marijuana on the non-smoking rental premises and frequently walked around on the roof of the building. He said that the tenant and her guests disturbed the other tenants in the building and led to one of the tenants vacating the premises.

The landlord testified that the tenant presently owes \$340.00 in rent for August 2010. He said that he knows that there is damage inside the rental premises, including a window, but he could not provide receipts or estimates at this time.

Analysis Order of Possession

The tenant had ten days following service of the One Month Notice to End Tenancy for Cause to file an application for dispute resolution regarding that notice. The tenant did not do so. In accordance with section 47(5) of the *Act*, the tenant's failure to file an application for dispute resolution ended this tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by June 30, 2010. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession. The

landlord will be given a formal Order of Possession which must be served on the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

Monetary Order

I find that the landlord is entitled to receive a monetary award of \$340.00 in unpaid rent for August 2010. As the landlord was successful in this application, I find that the landlord is entitled to recover the \$50.00 filing fee paid for this application. I allow the landlord to retain \$390.00 from the tenant's security deposit to satisfy the monetary award in this decision.

Conclusion

I grant the landlord an Order of Possession to be effective 2 days after notice is served to the tenant. I allow the landlord to retain \$390.00 from the tenant's security deposit for unpaid rent and recovery of the landlord's filing fees for this application.

The landlord is provided with formal Orders in the above terms. Should the tenant fail to comply with these Orders, these Orders may be filed and enforced as Orders of the Provincial 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*.