

DECISION

Dispute Codes OPR, MNR, 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 pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions. The landlord testified that one of the landlord's staff handed the tenant(s) a 10 Day Notice to End Tenancy for Unpaid Rent on July 5, 2010. The landlord testified that copies of the application for dispute resolution hearing package were sent to both tenants by registered mail on July 16, 2010. The landlord provided Canada Post Tracking Numbers to confirm this mailing. The female tenant confirmed that the tenants received the landlord's notice and application for dispute resolution package. I am satisfied that these documents were served to the tenants 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? Is the landlord entitled to recover the application fee for this application from the tenants?

Background and Evidence

The landlord testified that this month-to-month tenancy commenced on March 18, 2005. The current rent is \$569.00 per month, payable on the first of the month. The landlord testified that no security deposit is being held by the landlord for this tenancy.

The landlord provided undisputed testimony that the tenants have not paid any portion of their \$569.00 rent for May, June, July, August and September 2010. The landlord said that the tenants did not pay the \$1,288.00 in unpaid rent cited in the July 2, 2010 notice to end tenancy for unpaid rent.

The tenant testified that there was a dead rodent in her wall for a long time and that the landlord did nothing to remedy the situation. She confirmed that the tenants have not paid their rent for the months in question.

Analysis

Order of Possession

The tenants failed to pay their unpaid rent within five days of receiving the 10 Day Notice to End Tenancy. The tenants have not made application pursuant to section 46(4) of the *Act* within five days of receiving the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenants' failure to take either of these actions within five days led to the end of their tenancy. In this case, this required the tenant to vacate the premises by July 19, 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 for Rental Arrears

I find that the landlord is entitled to receive an order for unpaid rent from May through September 2010. I grant the landlord a monetary award of \$2,845.00 (i.e., five months at \$569.00 per month) for unpaid rent. Since the landlord has been successful in this

application, I add \$50.00 to this monetary award to allow the landlord to recover the filing for this application.

Conclusion

I grant a 2 Day Order of Possession to the landlord. I grant a monetary Order in the amount of \$2,895.00 which includes the recovery of the landlord's filing fee for this application.

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