

DECISION

Dispute Codes OPR, MNR, MNDC, 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 for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord testified that one of the landlord's staff members handed the tenant the 10 Day Notice to End Tenancy for Unpaid Rent on July 15, 2010. She testified that a staff member handed the tenant a copy of the application for dispute resolution hearing package on July 23, 2010. I accept that the landlord has served these documents 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 filing fee for this application?

Background and Evidence

This one-year fixed term tenancy commenced on March 1, 2010. Monthly rent was set at \$1,050.00, payable on the first of each month.

The landlord took action to end this tenancy when the tenant did not pay her July 2010 rent of \$1,050.00. She testified that the tenant paid \$500.00 of this outstanding rent on

July 26, 2010. She said that the tenant has paid some of her outstanding rent for July, August and September 2010 for occupancy only. She said that the tenant still owes \$775.00 in rent.

Analysis

Order of Possession

The tenant failed to pay the July 2010 rent within five days of receiving the 10 Day Notice to End Tenancy. The tenant has 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 tenant's failure to take either of these actions within five days led to the end of this tenancy by July 21, 2010. As the tenant has not vacated the rental premises, I find that the landlord is entitled to a formal Order of Possession to take effect at one o'clock in the afternoon on September 30, 2010. 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 by one o'clock in the afternoon on September 30, 2010, 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 a monetary award for unpaid rent in the amount of \$775.00.

The landlord testified that she continues to hold the tenant's \$585.00 security deposit plus interest paid on February 4, 2010. Over that period, no interest is owing on the landlord's retention of the security deposit. Although the landlord's application does not seek to retain the deposit, using the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain the security deposit in partial satisfaction of this monetary award.

As the landlord has been successful in this application, I authorize the landlord to recover the filing fees for this application from the tenant.

Conclusion

I grant the landlord an Order of Possession to take effect by one o'clock in the afternoon on September 30, 2010. I grant the landlord a monetary Order in the following terms.

Item	Amount
Unpaid Rent	\$775.00
Less Security Deposit	-585.00
Recovery of Filing Fee for this application	50.00
Total Monetary Award	\$240.00

I allow the landlord to retain the tenant's security deposit and to recover the filing fee for this application.

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*.