

DECISION

Dispute Codes OPR, MND, 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 posted the Ten Day Notice to End Tenancy on the tenant's door on July 5, 2010. The landlord testified that she sent the tenant the application for dispute resolution hearing package by registered mail on July 23, 2010. She provided the Canada Post tracking number to confirm the mailing of this package. I am satisfied that the landlord has served the tenant with these documents in accordance with the provisions of 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 \$775.00, payable on the first of the month.

The landlord took action to end this tenancy when the tenant did not pay \$275.00 of his \$775.00 July 2010 rent. She testified that the tenant has not paid anything towards his August or September rent. In total, the landlord said that the tenant owes \$1,825.00 in unpaid rent for the three months. The landlord testified that she believes the tenant may have vacated the rental premises.

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 19, 2010. I grant the landlord 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 a monetary award for unpaid rent in the amount of \$1,825.00.

The landlord testified that she continues to hold the tenant's \$387.50 security deposit plus interest paid on March 1, 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 a 2 Day Order of Possession. I grant the landlord a monetary Order in the following terms.

Item	Amount
Unpaid July Rent	\$275.00
Unpaid August Rent	775.00
Unpaid September Rent	775.00
Less Security Deposit	-387.50
Recovery of Filing Fee for this application	50.00
Total Monetary Award	\$1,487.50

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*.