



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with the landlord's application for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent, authority to retain the security deposit and recovery of the filing fee. Both parties appeared at the hearing and were provided the opportunity to be heard, to respond to submissions of the other party and to ask questions. The tenant confirmed receipt of the hearing documents and evidence.

Issues(s) to be Decided

1. Is the landlord entitled to an Order of Possession for unpaid rent?
2. Is the landlord entitled to a Monetary Order for unpaid rent?
3. Is the landlord authorized to retain the tenant's security deposit?

Background and Evidence

I was provided the following undisputed evidence. The tenancy commenced August 1, 2004 and the tenant paid a \$190.00 security deposit. The tenant is required to pay rent of \$461.46 per month. On July 12, 2010 the landlord served a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) by posting it on the tenant's door. The Notice indicates that rent of \$1,384.36 was outstanding as of July 1, 2010 and had an effective date of July 22, 2010. The tenant did not dispute the Notice and continues to reside in the rental unit.

As evidence for this hearing the landlord submitted that the tenant owes a total of \$2,307.28 including loss of rent for the months of August and September 2010. The tenant agreed that he owed the landlord that amount.

The tenant stated he is moving out at the end of September 2010. The landlord consented to the tenant occupying the rental unit until September 30, 2010 and was agreeable to an Order of Possession effective September 30, 2010.

The landlord provided the following documentary evidence: a written summary of tenancy information, a copy of the 10 Day Notice, and the portion of the tenant's ledger from August 2009 onwards.

Analysis

Based upon review of the tenant's ledger and the tenant's testimony I am satisfied that the tenant failed to pay rent for the months of May 2010 onwards. I am satisfied that the landlord served a 10 Day Notice upon the tenant and the tenancy ended on the effective date on the Notice. Since the tenant continues to occupy the rental unit the landlord is entitled to an Order of Possession. In recognition of the mutual agreement reached between the parties during the hearing I provide the landlord with an Order of Possession effective September 30, 2010. To enforce the Order of Possession the landlord must serve it upon the tenant and may file it in The Supreme Court of British Columbia to enforce as an Order of that court.

Based upon the undisputed evidence before me I am satisfied that the tenant owes the landlord for unpaid rent and loss of rent in the amount of \$2,307.28 up to and including the month of September 2010. Accordingly, the landlord is authorized to retain the tenant's security deposit and accrued interest in partial satisfaction of the unpaid rent. I calculate the accrued interest is \$6.73. I also award the filing fee to the landlord.

In light of the above, I provide the landlord with a Monetary Order calculated as follows:

Unpaid rent and loss of rent including September 2010	\$ 2,307.28
Less: security deposit and interest	(196.73)
Plus: filing fee	<u>50.00</u>
Monetary Order for landlord	\$ 2,160.55

The landlord must serve the Monetary Order upon the tenant and may file it in Provincial Court (Small Claims) to enforce as an Order of that court.

Conclusion

The landlord has been provided an Order of Possession effective September 30, 2010. The landlord has been authorized to retain the tenant's security deposit and accrued interest in partial satisfaction of the rent owed the landlord. The landlord has been provided a Monetary Order for the balance owing of \$2,160.55 to serve upon the tenant.

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*.

Dated: September 23, 2010.

Dispute Resolution Officer