

DECISION

Dispute Codes MNR, MNSD, OPR, FF

Introduction

This is an application by the Landlord for an order of possession following a 10 day notice to end tenancy for unpaid rent. A monetary order is also being sought for unpaid rent and to keep all of the security deposit. The Landlord is also seeking the recovery of the filing fee. The Landlord appeared by conference call and gave undisputed testimony. The Tenant did not attend.

Issues(s) to be Decided

Does the Landlord have cause for an order of possession for unpaid rent?

Is the Landlord entitled to keep the security deposit?

Background and Evidence

This Tenancy began on December 1, 2008 on a fixed term lease for 6 months ending May 31, 2009. This became a month to month tenancy thereafter. The monthly rent is \$800.00 which is payable on the 1st of each month. A \$400.00 security deposit was made on November 24, 2008. The 10 day notice to end tenancy was served by posting it on the door of the rental unit on September 3, 2010 with a move out day on September 13, 2010. According to the Landlord, the Tenant has made a partial payment of \$300.00 on September 3, 2010. The hearing documents were served by registered mail on October 4, 2010 and was returned to the Landlord as undelivered on October 23, 2010. The Landlord states that the Tenants are still living in the rental unit and has indicated that they will be vacating the rental unit on October 31, 2010. The Landlord is seeking outstanding rent for the month of September for \$500.00 and for October 2010 for \$800.00 as well as late fees as indicated on the Tenant Ledger and Tenancy Agreement of \$25.00 for each of the same months.

Analysis

I am satisfied that the Tenant was properly served with the 10 day notice to end tenancy and the hearing document package. Based on the above facts I find that the Landlord is entitled to an order of possession. The Tenant must be served with the order of possession. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

As for the monetary order, I find that the Landlord has established a claim for unpaid rent of \$1,300.00 and late fees of \$50.00. The Landlord is also entitled to recovery of the \$50.00 filing fee. I order that the Landlord retain the \$400.00 security deposit and the \$0.62 in interest which has accrued to the date of this judgement in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of \$999.38. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Unpaid Rent- September and October	1,300.00
Late Fees- September and October	50.00
Filing Fee	50.00
SubTotal	1,400.00
Minus Security Deposit and Accrued Interest	-400.62
Total	999.38

Conclusion

The Landlord is granted an order of possession and a monetary order for \$999.38. The Landlord may retain the security deposit.

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: October 27, 2010.
