



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 an application by the landlord pursuant to the *Residential Tenancy Act* for orders as follows:

1. A monetary order pursuant to Section 67;
2. An Order of Possession pursuant to Section 55;
3. An Order to retain the security and/or pet deposit pursuant to Section 38; and
4. An Order to recover the filing fee pursuant to Section 72.

I accept that the tenant was properly served with the Notice to End Tenancy by posting the Notice to the rental unit door and deemed served with the Application for Dispute Resolution hearing package sent by way of registered mail.

The tenants did not appear. The landlord was given full opportunity to be heard, to present evidence and to make submissions.

On the basis of the solemnly sworn evidence presented at the hearing a decision has been reached.

Issue(s) to be Decided

Whether the landlord has cause to end this tenancy and receive an Order of Possession and whether the landlord is entitled to monetary order for unpaid rent and recovery of the filing fee.

Background and Findings

Order of Possession

The landlord testified that the tenant was served with the Notice to End Tenancy by way of posting the Notice to the rental unit door on September 4, 2010. The landlord gave evidence that the tenant did pay the rental arrears but did not do so until September 16, 2010. The landlord testified that he accepted the rent for “use and occupancy only” so as to not reinstate the tenancy.

As set out on the 10 day Notice to End Tenancy, once served, a tenant has 5 days within which to pay the rent requested on the Notice or, if the tenant disputes that the rent is owed, to file an Application for Dispute Resolution. While the tenant did pay the rental arrears, she did not do so within the 5 day time limit allowed and having missed this time limit the *Residential Tenancy Act* provides that the tenant(s) has/have been deemed to have accepted the end of the tenancy on the date set out in the Notice. I therefore find that the landlord is entitled to an Order of Possession.

Monetary Order

Rental Arrears

The landlord has received his rent and therefore withdrew his application to recover the rent and to retain the security deposit therefor.

Filing Fees

I find that the landlord is entitled to recover the filing fees paid for this application and to do so he may deduct \$50.00 from the security deposit he holds.

Conclusion

The landlord is provided with a formal copy of an order of possession. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.