

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, 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;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; 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's representative attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. She testified that the landlord posted the 10 Day Notice to End Tenancy for Unpaid Rent on the tenant's door on October 17, 2010. She testified that the landlord sent the tenant a copy of the application for dispute resolution hearing package by registered mail on November 20, 2010. She provided a Canada Post Tracking Number to confirm this mailing. I am satisfied that the landlord has served these documents to the tenant 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 award for unpaid rent? Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenant?

### Background and Evidence

This tenancy commenced on August 1, 2010. Monthly rent was set at \$800.00, payable on the first of each month. The landlord continues to hold the tenant's \$400.00 security deposit plus interest paid on August 1, 2010.

The landlord testified that the tenant has not paid \$250.00 of her rent for September 2010, nor has she paid any rent for October, November or December of 2010. The landlord testified that the tenant has not paid any of the \$1,050.00 identified as owing in the landlord's October 17, 2010 10 Day Notice to End Tenancy.

### Analysis

#### Order of Possession

The tenant failed to pay the rent owing on October 17, 2010 within five days of being served with 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 her tenancy and required her to vacate the premises by October 31, 2010. As that has not occurred, I find that the landlord is entitled to 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

Based on the undisputed evidence presented by the landlord, I issue the landlord a monetary award for unpaid rent of \$250.00 for September 2010, and \$800.00 per month for October, November and December 2010.

I allow the landlord to retain the tenant's \$400.00 security deposit plus interest to partially satisfy this monetary award. No interest is payable over this period. As the landlord has been successful in this application, I allow the landlord to recover the \$50.00 filing fee for this application.

Conclusion

I provide the landlord with a formal copy of an Order of Possession to take effect within 2 days of the landlord's service of this notice to the tenant(s). 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.

I issue a monetary Order in the landlord's favour in the amount of \$2,300.00 on the following terms which allows the landlord to retain the tenant's security deposit and to recover the filing fee for this application:

<b>Item</b>	<b>Amount</b>
Unpaid September 2010 Rent	\$250.00
Unpaid October 2010 Rent	800.00
Unpaid November 2010 Rent	800.00
Unpaid December 2010 Rent	800.00
Less Security Deposit	-400.00
Recovery of Filing Fee for this application	50.00
<b>Total Monetary Order</b>	<b>\$2,300.00</b>

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*.