



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent.

Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?
2. Are there rent arrears and if so, how much?

Background and Evidence

This tenancy started approximately 2 years ago. Rent is \$650.00 per month payable in advance on the 1st day of each month.

In a previous hearing held on November 26, 2010, the Tenants' application to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated October 30, 2010 was dismissed without leave and the Landlord's 10 Day Notice to End Tenancy was upheld. The Landlord said that the Tenants have failed or refused to vacate the rental unit and he now seeks an Order of Possession.

In the previous hearing held on November 26, 2010, the Dispute Resolution Officer also found that there was insufficient evidence to conclude that the Tenants had an agreement with the Landlord to split the cost of cable which the Tenants pay. The Tenants had been unilaterally deducting \$40.00 per month from their rent in order to recover the Landlord's alleged one half share of that expense. The Landlord claimed that the Tenants have deducted \$40.00 from each of their last 7 rent payments (including December 2010) and as a result, he seeks to recover rent arrears of \$280.00.

Analysis

Section 55 of the Act says that if a Landlord may request an Order of Possession if the director dismisses a tenant's application to cancel a Notice to End Tenancy or upholds the Landlord's Notice. As the Tenants' application to cancel the 10 Day Notice to End



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Tenancy for Unpaid Rent or Utilities dated October 30, 2010 was dismissed and the Notice upheld, I find that the Landlord is entitled to an Order of Possession to take effect 2 days after service of it on the Tenants.

Although the Tenants argued that they have a verbal agreement with the Landlord that the Landlord would pay for ½ of the cost of the cable, a finding was already made on that issue at the previous hearing and it is not now open for the Tenant to reargue it in this hearing. I find that the Tenants have deducted \$40.00 from their last 7 rent payments and as a result, I find that the Landlord is entitled to recover rent arrears of \$280.00. As the Landlord has been successful in this matter, he is also entitled pursuant to s. 72 of the Act to recover from the Tenants the \$50.00 filing fee he paid for this proceeding.

Conclusion

An Order of Possession effective 2 days after service of it on the Tenants and a Monetary Order in the amount of **\$330.00** have been issued to the Landlord. A copy of the Orders must be served on the Tenants; the Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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: December 21, 2010.

Dispute Resolution Officer