



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This conference call hearing was convened in response to the landlord's application for an Order of Possession; a Monetary Order for unpaid rent or utilities; for money owed under the Act; to keep all or part of the pet damage deposit or security deposit; and to recover the filing fees associated with this application.

The landlord participated in the hearing and provided affirmed testimony. She testified that she served the Notice of Dispute Resolution to the tenant by way of regular and registered mail, both sent on January 10th, 2011. The landlord stated that on January 17th, 2011, Canada Post returned the registered correspondence to her as the recipient had refused delivery. The tenant did not participate and the hearing proceeded in the tenant's absence.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a Monetary Order, and for what amount?

Background and Evidence

The rental unit consists of a basement suite in a detached home located in Surrey. Pursuant to a written agreement, the month to month tenancy started on December 6th, 2009 at a rate of \$750.00 payable on the first of each month. The tenant paid a security and pet damage deposit in the amount of \$375.00 respectively, totalling \$750.00.

The landlord testified that the tenant owed rent and utilities for October and November 2010. She said that she served the tenants personally with a 10 Day Notice to End Tenancy on December 3rd. She stated that she went to the rental unit and spoke to the tenants on December 31st, January 1st, 2nd, and 7th, 2011. By January 7th, the landlord said that that month's rent had not yet been paid and that the tenants continually made excuses. The landlord said that tenant J.B. told her to come back the next day to collect the rent. The landlord said that she returned on January 8th and knocked on the door. The landlord stated that she could hear the tenants inside but that they never answered the door.

The landlord provided an updated monetary claim as follows:

- Unpaid rent for October 2010:	\$ 25.00
- Unpaid rent for November 2010:	\$ 25.00
- Unpaid rent for January 2011:	\$ 750.00
- Unpaid gas bill for October-November 2010:	\$ 230.00
- Unpaid hydro bill for October-November 2010:	\$ 57.60
- Total:	\$1087.60

Analysis

Section 46(5) of the *Residential Tenancy Act* provides that if a tenant who has received a Notice to End Tenancy for non-payment of rent does not pay the rent or makes an application for dispute resolution within 5 days, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date. The tenant in this matter has not filed an application for dispute resolution.

I accept the landlord's undisputed testimony that she served the tenant with the Notice of Dispute Resolution in a proper manner pursuant to the *Residential Tenancy Act*.

I find that the tenant knew, or ought to have had knowledge of the date scheduled for this hearing.

Based on the available evidence, I find that the landlord is entitled to an Order of Possession and a Monetary Order as claimed.

Conclusion

I grant the landlord an Order of Possession effective two days from the date the order is served upon the tenant.

This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I authorize the landlord to retain the tenants' \$750.00 security and pet damage deposit for a balance owing of \$337.60. Since the landlord was successful, I award the landlord recovery of the \$50.00 filing fee. Pursuant to Section 67 of the Act, I grant the landlord a Monetary Order totalling \$387.60.

This Order may be registered in the Small Claims Court and enforced as an order 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*.

Dated: January 21, 2011.

Residential Tenancy Branch