

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing. The landlord's agent (the landlord) attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord testified that she posted a 10 Day Notice to End Tenancy for Unpaid Rent on the tenant's door on December 13, 2010. She provided the name of the witness who saw her post this notice. She testified that she sent the tenant a copy of the dispute resolution hearing package by registered mail on December 23, 2010. She provided a Canada Post Tracking Number to confirm this mailing. I am satisfied that the landlord has served the notice to end tenancy and the application for dispute resolution to the tenant in accordance with the *Act*.

In his application, the landlord maintained that the tenant had not followed the terms of an earlier consent agreement reached in a December 3, 2010 hearing and set out in a corrected decision of December 16, 2010. This application dealt with applications by the tenant and the landlord related to the landlord's November 6, 2010 10 Day Notice to End Tenancy for rent owing for November 2010.

Although the parties consented to an agreement to resolve the dispute before the previous DRO who considered their applications regarding November 2010 rent owing, the current application was submitted when the tenant failed to pay her December 2010 rent. Since the payment of rent for December 2010 was not in dispute at the previous dispute resolution hearing, I consider the landlord's present application within my jurisdiction to consider.

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 recover his filing fee from the tenant?

Background and Evidence

The landlord testified that this periodic tenancy commenced about 10 years ago. The current monthly rent is set at \$525.00, payable on the first of the month. The landlord said that no security deposit was paid for this tenancy.

The landlord testified that the tenant has not paid all of the November 2010 rent, nor any rent for December 2010 or January 2011. At the hearing, she asked for an Order of Possession and for a monetary award for the rent owing from this tenancy.

Analysis

Order of Possession

The tenant failed to pay the November and December 2010 rent within five days of receiving 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 this tenancy. As the tenant has not vacated the premises, 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

I allow the landlord's application for a monetary Order and issue the landlord a monetary award for unpaid rent for November 2010 (\$255.00), December 2010 (\$525.00) and January 2011 (\$525.00). As the landlord has been successful in this application, I allow the landlord to recover the \$50.00 filing fee from the tenant.

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 \$1,355.00. This monetary Order is for unpaid rent for November 2010, December 2010 and January 2011 and for recovery of the landlord's filing fee for this application. 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*.