

DECISION

Dispute Codes OPR, OPB, MNR, FF

Introduction

This is an application by the Landlord for an order of possession resulting from a 10 day notice to end the tenancy for unpaid rent and a 1 month notice to end the tenancy for cause, specifically regarding the Residential Tenancy Act only: security deposit or pet deposit was not paid within 30 days as required by the tenancy agreement. The Landlord is also seeking a monetary order for unpaid rent and the recovery of the filing fee.

The Landlord attended the hearing by conference call and gave undisputed affirmed testimony. The Tenants did not attend.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession resulting from a 10 day notice to end the tenancy for unpaid rent?

Is the Landlord entitled to an order of possession resulting from a 1 month notice to end the tenancy for cause?

Is the Landlord entitled to a monetary order for unpaid rent?

Background and Evidence

This tenancy began on November 1, 2010 on a fixed term tenancy ending October 31, 2011 as shown in the signed tenancy agreement submitted as evidence by the Landlord. The monthly rent is \$1,150.00 payable on the 1st of each month. Only \$287.50 of the \$575.00 security deposit has been paid as shown in the Landlord's rental ledgers for November and December of 2010.

The Landlord states that the 10 day notice to end the tenancy for unpaid rent and the 1 month notice to end the tenancy for cause were both served in person to the Tenant on December 2, 2010. The hearing and evidence documents were served by registered mail on January 10, 2011.

The Landlord's direct evidence is that the Tenant was in arrears for November rent of \$120.00, for December rent of \$195.00 and is still in possession of the rental unit in January 2011 and has not paid rent of \$1,150.00 as of the date of this hearing. The

total rent arrears is \$1,470.00. The Landlord's application for unpaid rent is \$1,395.00. The Landlord states that he forgot to include the November rent arrears for \$125.00. The Landlord has submitted evidence of a letter from the Tenant agreeing to the lack of rent payment and his intention to vacate the rental unit on February 1, 2011 for this purpose.

Analysis

I am satisfied that the Landlord has properly served the Tenant with the 10 day notice to end the tenancy for unpaid rent. The Landlord has provided a proof of service for the notice. I am also satisfied that the Landlord has properly served the 1 month notice to end the tenancy for cause as supported in the Landlord's rental ledgers provided. As the Tenant has not paid the outstanding rent or the outstanding security deposit amount and has not filed an application for dispute resolution concerning this matter. The Tenant is deemed to conclusively accept the notice and must move out on the date set out on page 1 of the notice or sooner. I grant an order of possession to the Landlord to end the tenancy. The Tenant must be served with the order of possession. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

As for the monetary order, I find that the Landlord has established a claim for unpaid rent, but I find that the rent ledgers provided by the Landlord do not match those facts as provided by the Landlord's direct evidence. As shown below by my calculations:

November 2010 Rent	\$1,150.00
November 2010 Rent paid by Tenants	\$ 925.00
Outstanding Rent due	\$ 225.00 (\$1,150.00-\$925.00)
Security Deposit due	\$ 287.50
December 2010 Rent	\$1,150.00
December 2010 Rent paid by Tenants	\$1,080.00
Outstanding December Rent Unpaid	\$ 70.00 (\$1,150.00-\$1,080.00)
January 2011 Rent Unpaid	\$1,150.00
Rent Arrears November/December	\$ 295.00 (\$225.00+\$70.00)
Total Rent Arrears	\$1,445.00 (\$1,150.00+\$295.00)
Total Security Deposit Outstanding	\$ 287.50

I find that the Landlord has established a claim for rent arrears totalling \$1,445.00. The Landlord is limited to the amount of claim as set out in the application for dispute resolution of \$1,395.00. The Landlord is also entitled to recovery of the \$50.00 filing fee. The Landlord is granted an order under section 67 for the balance of \$1,445.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Landlord is granted an order of possession and a monetary order for \$1,445.00.

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 26, 2011.

Residential Tenancy Branch