

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing was convened in response to an Application for Dispute Resolution ("Application") by the Landlord pursuant to the *Residential Tenancy Act* ("Act") for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67;
3. An Order to retain the security deposit - Section 38
4. An Order to recover the filing fee for this application - Section 72.

Service: On February 3, 2011, The Landlord served the Tenant in person with a 10 day notice to end Tenancy for Unpaid Rent. On February 14, 2011, the Landlord served the Tenant in person with the Application. Service is accepted as valid in accordance with the Act. Despite the valid service, the Tenant did not participate in the conference call hearing.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The Landlord provided the following information: The tenancy began on November 1, 2010 as a month to month tenancy. Rent in the amount of \$1,200.00 is payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected a security deposit from the Tenant in the amount of \$600.00. The Tenant failed to pay rent for the months of December 2010, January 2011, and February 2011 and has not, to date, paid these rental arrears.

Information on file and from the Landlord indicates that the Tenant has not filed an Application for Dispute Resolution.

The quantum of the Landlord's monetary claim is **\$3,600.00**.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the Tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application with the Residential Tenancy Branch. If the Tenant does neither of these two things, the Tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Given the Tenant's non-payment of rental arrears and the lack of an Application filed by the Tenant, the Tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Given that the time for making an Application by the Tenant has expired, the Landlord is entitled to an Order of Possession.

I find that the Landlord has established a monetary claim for \$3,600.00 in unpaid rent. The Landlord is also entitled to recovery of the \$50 filing fee.

The security deposit will be off-set from the award made herein and the following shows the calculation for a Monetary Order:

Rental Arrears	\$3,600.00
Filing Fees for the cost of this application	50.00
Subtotal	3,650.00
Less Security Deposit and interest <i>to date</i>	600.00
Total Monetary Award	\$3,050.00

Conclusion

I grant an **Order of Possession** to the Landlord. The Tenant must be served with this 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.

I order that the Landlord retain the deposit of \$600.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$3,050.00**. If necessary, this order may be filed 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: February 24, 2011.

Residential Tenancy Branch

Now that you have your decision...

You might want more information about what to do next.

If you do, visit the RTB website at www.rto.gov.bc.ca for information about:

- How and when to enforce an order of possession:
Fact Sheet RTB-103: Landlord: Enforcing an Order of Possession
 - How and when to enforce a monetary order:
Fact Sheet RTB-108: Enforcing a Monetary Order
 - How and when to have a decision or order clarified or corrected:
Fact Sheet RTB-111: Clarification or Correction of Orders and Decisions
- How and when to apply for the review of a decision:
Fact Sheet RTB-100: Review of a Residential Tenancy Branch Decision **(Please Note: Legislated deadlines apply)**

If you would like to personally speak with Residential Tenancy Branch (RTB) staff or listen to our 24 Hour Recorded Information Line, please call:

- Lower Mainland: 604-660-1020
- Victoria: 250-387-1602
- Elsewhere in BC: 1-800-665-8779

Contact any Service BC Centre or visit the RTB office nearest you. For current information on locations and office hours, visit the RTB web site at www.rto.gov.bc.ca