

DECISION

Dispute Codes OPR, MND, MNR, MNSD, FF

Introduction

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

- an Order of Possession pursuant to section 55;
- a monetary order for unpaid rent and for damage to the unit, site or property pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; 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 attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord testified that he posted the 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) of \$1,212.60 on the tenant's door on January 7, 2011. The landlord presented written evidence that he sent the tenant a copy of the dispute resolution hearing package on January 27, 2011 by registered mail. He provided a copy of the Canada Post Tracking Number for this mailing. I am satisfied that the landlord served these documents to the tenant in accordance with the *Act*.

Issues(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent and damage to the rental unit? Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested? Is the landlord entitled to recover his filing fee for this application from the tenant?

Background and Evidence

Monthly rent is set at \$1,212.60, payable on the first of each month. The landlord testified that he has not received any portion of the \$1,212.60 identified as unpaid rent in his January 7, 2011 Notice.

The landlord applied for a monetary award of \$4,499.18 for the following items as well as the \$50.00 filing fee for this application:

Item	Amount
Unpaid January 2011 Rent	\$1,212.60
Unpaid February 2011 Rent	1,212.60
Unpaid Utilities to January 17, 2011	842.98
Estimate of Utilities Owed to Feb 28, 2011	343.50
Estimate of Damage to Unit	300.00
Security Deposit	587.50
Total Monetary Award Requested	\$4,499.18

The landlord updated some of his figures for his requested monetary award in his evidence package, received by the Residential Tenancy Branch on February 4, 2011. He provided receipts and summaries to update the amount owing for unpaid utilities as of February 28, 2011 at \$1,635.37, instead of the \$1,186.48 identified in his original claim. He also asked for miscellaneous expenses of \$79.36 to cover such items as photocopying, gasoline expenses, photographs and mailing costs. He also revised his estimate for damage to the unit to \$298.26 from \$300.00. He testified that this damage is for repair of a window (\$200.00), repair of two rain water downspouts (\$72.34) and a missing smoke detector cover (\$25.92). He said that these are the only damage claims he can submit at present as he has not yet been able to access the rental unit because the tenant changed the locks and appears to have left the rental unit on or about February 2, 2011. However, he said that some of the tenant's belongings remain in the rental unit.

Analysis

The tenant failed to pay the January 2011 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 that 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 on January 21, 2011. As the tenant has not given the landlord full and vacant possession of the rental unit and provided him with keys to the rental unit, I find that the landlord is entitled to a 24-hour 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 24 hours required, the landlord may enforce this Order in the Supreme Court of British Columbia.

Monetary Award

Based on the undisputed evidence presented by the landlord, I find that the landlord is entitled to a monetary award of \$1,212.60 for each of January and February 2011 for unpaid rent. I also allow the landlord a monetary award of \$1,635.37 for unpaid utilities

arising out of this tenancy and for \$298.26 for damage to the rental premises. I dismiss the landlord's application for miscellaneous expenses as these types of expenses are not recoverable, but allow him to recover his \$50.00 filing fee for this application.

I allow the landlord to retain the tenant's \$587.50 security deposit plus applicable interest to partially offset this monetary award. No interest is applicable over this period.

Conclusion

I provide the landlord with a formal copy of an Order of Possession to take effect within 24 hours 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 award in the landlord's favour in the following terms which allows the landlord to recover unpaid rent and utilities, losses arising out of this tenancy and the filing fee for this application.

Item	Amount
Unpaid January 2011 Rent	\$1,212.60
Unpaid February 2011 Rent	1,212.60
Unpaid Utilities	1,635.37
Damage to Rental Premises	298.26
Less Security Deposit	-587.50
Filing Fee	50.00
Total Monetary Order	\$3,821.33

I allow the landlord to retain the tenant's security deposit in partial satisfaction of the monetary award issued.

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*.