

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, 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 money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- authorization to recover her filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, although I waited until 1:45 p.m. in order to enable them to connect with 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 entered into written evidence a copy of a witnessed statement attesting to her agent's hand delivery of a 10 Day Notice to End Tenancy for Unpaid Rent and Utilities (the 10 Day Notice) to the male tenant at 2:50 p.m. on January 25, 2011. The landlord also entered into written evidence copies of Canada Post Tracking Numbers to confirm that she sent copies of her dispute resolution hearing package to the three listed tenants by registered mailing on February 10, 2011. I am satisfied that these documents and the evidence were served to the tenants in accordance with the *Act*.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent? Is the landlord entitled to a monetary award for unpaid rent and loss of rent arising out of this tenancy? Is the landlord entitled to recover the tenants' security deposit in partial satisfaction of the monetary award requested? Is the landlord entitled to recover her filing fee for this application from the tenants?

Background and Evidence

The landlord provided evidence that this two-year fixed term tenancy commenced on December 1, 2010. Monthly rent for this acreage property including a four bedroom home, outbuildings that the tenants planned to use for a pet grooming and dog boarding operation and associated acreage was set at \$2,200.00, payable on the first of each month. The landlord testified that she continues to hold the tenants' \$1,100.00 security deposit paid on or about December 1, 2010.

She testified that the tenants' only rental payment was \$1,500.00 for December 2010. She said that the tenants have paid no portion of the amount identified as owing in her January 25, 2011 Notice.

The landlord testified that the tenants appear to have vacated the rental premises recently. She said that they have removed almost all of their belongings and the dogs that were staying on the premises. She said that the doors were not locked by the tenants when they left. The lights have been left on in the property, but the gas company has discontinued service due to the tenants' non-payment of their bills. She said that the hydro company is also poised to disconnect service to this rental unit. She testified that it appears that someone unauthorized may be staying in the rental unit each night but leaving early each morning. She said that it appears that the tenants have abandoned the rental unit. She asked for an immediate Order of Possession so that she can protect her rental property from further damage as she is worried that pipes may freeze without utility services.

She also noted that the rental premises are severely damaged and it will not be possible for her to have this rental property available for rent during March 2011. She asked for a monetary award for unpaid rent for December 2010, January 2011 and February 2011, and her loss of rental income for March 2011. She also requested permission to retain the tenants' security deposit to partially offset her lost rent.

Analysis

Order of Possession

The tenants failed to pay the rent owing within five days of receiving the 10 Day Notice. The tenants have 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 tenants' failure to take either of these actions within five days led to the end of this tenancy on the effective date of the notice. In this case, this required the tenants to vacate the premises by February 5, 2011. It appears that the tenants have already vacated the rental premises without leaving the landlord keys to the premises. I find that the landlord is entitled to an immediate Order of Possession. The landlord will be given a formal Order of Possession. The landlord may enforce this Order in the Supreme Court of British Columbia.

Monetary Award

I allow the landlord's application for a monetary award for unpaid rent of \$700.00 for December 2010, and \$2,200.00 for each of January 2011 and February 2011. I also allow a monetary award for the landlord's loss of rent for March 2011 in the amount of

\$2,200.00, as I accept the landlord's testimony that she will not be able to ready the premises for rental for March 2011.

I allow the landlord to retain the tenant's \$1,100.00 security deposit plus interest in partial satisfaction of the monetary award. No interest is payable over this period. Since the landlord has been successful in this application, I allow her to recover her filing fee from the tenants.

Conclusion

I provide the landlord with a formal copy of an immediate Order of Possession. 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 following terms which allows the landlord to recover unpaid and lost rent, to retain the tenants' security deposit and to recover her filing fee.

Item	Amount
Unpaid December 2010 Rent	\$700.00
Unpaid January 2011 Rent	2,200.00
Unpaid February 2011 Rent	2,200.00
Lost March 2011 Rent	2,200.00
Less Security Deposit	-1,100.00
Recovery of Filing Fee for this application	100.00
Total Monetary Order	\$6,300.00

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*.