

DECISION

Dispute Codes:

OPC, MNR, MNSD, MNDC, FF

Introduction

This hearing was convened in response to an application by the landlord pursuant to the *Residential Tenancy Act* (the Act) for Orders as follows:

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

I accept the landlord's evidence that despite the tenant having been served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Residential Tenancy Act (the Act) the tenant did not participate in the conference call hearing. The landlord provided proof of registered mail service and a tracking number for the registered mail.

The landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on November 15, 2010. Rent in the amount of \$1160 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 \$580. The tenant was given a Notice to End the tenancy for Cause on December 29, 2010 with an effective date of January 31, 2011 - which was not disputed by the tenant in the required time to do so. The tenant further failed to pay rent in the month of January 2011 and on January 13, 2011 the landlord also served the tenant with a Notice to End tenancy for

non-payment of rent effective January 23, 2011. The landlord testified that in the past several days the tenant has vacated and taken the majority of their belongings; but has left behind some garbage. Despite the landlord's satisfaction that the tenant has essentially vacated, the landlord prefers to obtain an Order of Possession. The landlord has also provided evidence establishing that the tenancy agreement included a charge for parking in the amount of \$45 per month, a fee for late payment of rent in the amount of \$25 and for insufficient funds (NSF) in the amount of \$20. The landlord requests these fees in the aggregate of \$90. The quantum of the landlord's monetary claim is for **\$1250**.

Analysis

Based on the landlord's testimony I find that the tenant was served with a Notice to End Tenancy for Cause, and a Notice to End Tenancy for non-payment of rent and I find both Notices to be valid. The tenant has not disputed the Notice for Cause and has not paid the outstanding rent and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the Notices.

Based on the above facts I find that the landlord is entitled to an **Order of Possession** as requested.

I also find that the landlord has established a monetary claim for **\$1250** in unpaid rent, parking fee **\$45**, late fee of **\$25** and NSF fee of **\$20**. The landlord is also entitled to recovery of the \$50 filing fee, for a total entitlement of **\$1300**. The security deposit will be off-set from the award made herein.

Calculation for Monetary Order

Rental Arrears	\$1160.00
Parking	45.00
Late fee for January 2011	25.00
NSF charge	20.00
Filing Fees for the cost of this application	50.00
Less Security Deposit and interest <i>to date</i>	-560.00
Total Monetary Award	\$740.00

Conclusion

I grant an Order of Possession to the landlord **effective 2 days** from the day it is served on the tenant. 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 \$560 in partial satisfaction of the claim and I grant the landlord an order under Section 67 of the Act for the balance due of

\$740. 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*.