



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, MNR, MNSD, 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 - Section 55;
2. A Monetary Order for unpaid rent / loss of revenue - Section 67;
3. An Order to retain the security / pet deposit - Section 38
4. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing.

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 in relation to a basement suite began on May 1, 2010. The current tenancy is in relation to the upper suite in the same building and began on September 1, 2010. Rent in the amount of \$1,250.00 is payable in advance on the first day of each month. The Landlord collected a security deposit from the Tenant in the amount of

\$425.00 at the start of the tenancy in relation to the basement suite. The Tenant paid \$625.00 towards the rent for February 2011 and has not to date paid the arrears of \$625.00. On February 24, 2011 the Landlord personally served the Tenant with a notice to end tenancy for non-payment of rent. The Tenant has not paid the February arrears, has not filed an application to dispute the Notice, has not vacated the premises and has not paid the rent for March in the amount of \$1,250.00.

The landlord states that the Tenant also purchased furniture for the rental unit from the Landlord's girlfriend and claims an amount owing on that purchase of \$200.00.

The quantum of the Landlord's monetary claim is **\$2,100.00 (650.00 + 1,250.00 + 200.00)**

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 for Dispute Resolution 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.

Based on the Landlord's testimony I find that the Tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The Tenant has not paid the outstanding rent and has not applied for Dispute Resolution to dispute the notice. The Tenant is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice.

Given the above facts, I find that the Landlord is entitled to an **Order of Possession**.

Accepting the evidence from the Landlord that a debt of \$200.00 exists between the Tenant and the Landlord's girlfriend for a sale and purchase of furniture, I cannot find that this debt is related to the tenancy and therefore dismiss the landlord's claim for that amount.

I find that the Landlord has established a monetary claim for **\$650.00** in rental arrears for February 21, 2011 plus a monetary claim for **\$1,250.00** in unpaid rent for March 2011. The Landlord is also entitled to recovery of the \$50 filing fee, for a total entitlement of \$1,950.00.

The **security deposit** will be off-set from the award made herein.

Calculation for Monetary Order

Feb Rental Arrears	\$650.00
March Rent	1,250.00
Filing Fee	50.00
Less Security Deposit and interest <i>to date</i>	-425.00
Total Monetary Award	\$1,525.00

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** and interest of \$425.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$1,525.00**. 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: March 23, 2011.

Residential Tenancy Branch