



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* 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 - Section 38
4. An Order to recover the filing fee for this application - Section 72.

The Landlord's evidence that the Tenant was served with the application for dispute resolution and notice of hearing by attaching a copy to the door of the Tenant's residence in accordance with Section 89 of the Residential Tenancy Act (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 began on October 15, 2010. Rent in the amount of \$1,475.00 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 \$737.50. For the month of October 2011, the Tenant paid \$653.70, leaving arrears for that month of **\$83.80**. The Tenant failed to pay rent for the months of November, leaving arrears of **\$1,475.00**. On December 21, 2011, the Tenant paid the amount of \$1,023.00 for that month's rent, leaving arrears of **\$452.00**. The Tenant failed to pay rent for the month of January 2011, leaving arrears for that month at **\$1,475.00**. The Tenant failed to pay rent for the month of February 2011, leaving arrears of **\$1,475.00**. Total arrears to date are $83.80 + 1,475.00 + 452.00 + 1,475.00 + 1,475.00 = \mathbf{\$4,960.80}$. In December 2010, the landlord credited the Tenant with the amount of \$190.00 against their arrears for completing yard work for the Landlord. The total arrears remaining are: $4,960.80 \text{ less } 190.00 = \mathbf{\$4,770.80}$.

On February 3, 2011, the Landlord served the Tenant with a notice to end tenancy for non-payment of rent. The quantum of the landlord's monetary claim is \$4,770.80

At the Hearing, the Landlord requested an amendment to his application to include a claim for a loss related to March rent. I decline to make that amendment as this amount is a loss that may still be mitigated, the Tenant did not appear at the Hearing and has no knowledge of this claim, and to accept the amendment may prejudice the Tenant.

Analysis

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 and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice.

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

I also find that the landlord has established a monetary claim for \$4,770.80 in unpaid rent. The landlord is also entitled to recovery of the \$50 filing fee, for a total entitlement of \$4,820.80.

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

Calculation for Monetary Order

Rental Arrears	\$4,770.80
Filing Fees for the cost of this application	50.00
Subtotal	4,820.80
Less Security Deposit	-737.50
Total Monetary Award	\$4,083.30

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 \$737.50 in partial satisfaction of the claim and I grant the landlord an order under Section 67 of the Act for the balance due of **\$4,083.30**. 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 08, 2011.

Residential Tenancy Branch