



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 personal service in accordance with Section 89 of the Act.

The Landlord and Tenant were both 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 1, 2010. Rent in the amount of \$1,450.00 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 \$725.00. The Tenant failed to pay rent for the month of February 2011 and on February 7, 2011 the Landlord personally served the Tenant with a notice to end tenancy for non-payment of rent on February 17, 2011. The quantum of the Landlord's monetary claim is **\$1,450.00**.

The Tenant did not file an application for dispute resolution within 5 days of receiving the notice and confirmed that February rent remains in arrears.

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. As the Tenant has not paid the outstanding rent and I find that the Landlord is entitled to an **Order of Possession**.

I also find that the Landlord has established a monetary claim for **\$1,450.00** in unpaid rent and is entitled to recovery of the \$50 filing fee, for a total entitlement of **\$1,500.00**.

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

Calculation for Monetary Order

Rental Arrears	\$1,450.00
Filing Fees for the cost of this application	50.00
Subtotal	1,500.00
Less Security Deposit	-725.00
Total Monetary Award	\$775.00

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 \$725.00 in partial satisfaction of the claim and I grant the landlord an order under Section 67 of the Act for the balance due of **\$775.00**. 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 03, 2011.

Residential Tenancy Branch