



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, 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 - Section 55;
2. A Monetary Order for unpaid rent / loss of revenue - Section 67;
3. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenants were served with the application for dispute resolution and notice of hearing by personal service in accordance with Section 89 of the Act. The Tenants 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 November 1, 2010. Rent in the amount of \$1,500.00 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 \$600.00 and a pet deposit in the amount of \$400.00 for a total deposit of \$1,000.00. The Tenant was late paying

rent in December 2010, January 2011 and February 2011. On February 2, 2011 the Landlord personally served the Tenant with a one (1) month notice to end tenancy for cause, with reasons that the Tenant is repeatedly late paying rent. The move-out date on the Notice was provided as March 2, 2011. Information on the file indicates that the Tenant has not filed an Application for Dispute Resolution to dispute the Notice. The Landlord states the Tenants are still residing in the rental unit and have not paid the rent for March 2011. The quantum of the Landlord's monetary claim is **\$1,500.00**.

Analysis

Section 53 of the Act provides that an incorrect effective date on a notice to end tenancy is deemed to be changed to be in accordance with the Act. The correct move-out date for the Notice should have been March 31, 2011 and *not* March 2, 2011 and the move-out or effective date is therefore deemed to be March 31, 2011.

Section 47 of the Act provides that where a Landlord gives a Notice to End Tenancy for cause and the tenant does not make an application for Dispute Resolution within 10 days after the date the tenant receives the notice, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date.

Based on the Landlord's testimony I find that the Tenant was served with a notice to end tenancy for cause and I find the notice to be valid. The Tenant 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, or March 31, 2011.

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

I find that the Landlord has established a monetary claim for **\$1,500.00** in unpaid rent for March 2011. The Landlord is also entitled to recovery of the \$50 filing fee, for a total entitlement of **\$1,550.00**.

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

Calculation for Monetary Order

Rental Arrears	\$1,500.00
Filing fee	50.00
Subtotal	\$1,550.00
Less security and pet deposit and interest to date	-1,000.00
Total Monetary Award	\$550.00

Conclusion

I grant an Order of Possession for March 31, 2011 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 \$1,000.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$550.00**. 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 15, 2011.

Residential Tenancy Branch