



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 conference call hearing was convened in response to the landlord's application for an Order of Possession for unpaid rent; a Monetary Order for unpaid rent and to keep the security deposit; and to recover the filing fee associated with this application.

The landlord participated in the hearing and provided affirmed testimony. She testified that she served the Notice of a Dispute Resolution Hearing to the tenant by way of registered mail. She stated that she spoke with the tenant on March 10th, 2011 and that the tenant advised her that he will pay the rent but that he will not appear for the hearing. The tenant did not participate and the hearing proceeded in the tenant's absence.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a Monetary Order, and if so for what amount?

Is the landlord entitled to keep all or part of the security deposit?

Is the landlord entitled to recover the filing fee?

Background and Evidence

The rental unit consists of an apartment in a complex operated by a non-profit society. Pursuant to a written agreement, the month to month tenancy started on February 1st,

2004. The monthly rent of \$884.00 was payable on the first of each month. The tenant paid a security deposit in the amount of \$444.00.

The landlord testified that approximately seven months ago the tenant locked himself out of his unit. She stated that the tenant reported that he broke a window with a rock when he tried to have someone to allow him in from inside the suite.

The landlord submitted an updated monetary claim as follows:

- Broken window charge:	\$ 225.90
- Unpaid July 2010 rent:	\$ 188.00
- Unpaid rent for November 2010:	\$ 523.00
- Unpaid rent for December 2011:	\$ 16.00
- Unpaid rent for February 2011:	\$ 884.00
- Unpaid rent for March 2011:	\$ 884.00
- Total:	\$2720.90

Analysis

I accept the landlord's undisputed testimony and find that the tenant had knowledge of this hearing.

Section 46(5) of the *Residential Tenancy Act* provides that if a tenant who has received a Notice to End Tenancy for non-payment of rent does not pay the rent or makes an application for dispute resolution within 5 days, 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. The tenant in this matter continues to occupy the rental unit and he has not filed an application for dispute resolution.

Based on the available evidence, I find that the landlord is entitled to an Order of Possession and a monetary order as claimed.

Conclusion

I grant the landlord an Order of Possession effective two days from the date the order is served upon the tenant.

This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The landlord has established a claim of \$2720.90. Since she was successful, I also find that the landlord is entitled to recover the \$50.00 filing fee for the sum of \$2770.90. I authorize the landlord to retain the tenant's \$444.00 filing fee and Pursuant to Section 67 of the Act, I grant the landlord a monetary order for the balance of \$2226.90.

This Order may be registered in the Small Claims Court and enforced as an order of that Court.

This Order may be registered 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 11, 2011.

Residential Tenancy Branch