

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although we waited until 11:11 a.m. in order to enable the tenant to connect with this hearing. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord entered written evidence that he sent the tenant a 10 Day Notice to End Tenancy for Unpaid Rent by registered mail on December 7, 2010. He also entered written evidence that he sent the tenant a copy of the dispute resolution hearing package by registered mail on February 17, 2011. He provided Canada Post Tracking Numbers for both mailings. I am satisfied that the landlord served these documents to the tenant in accordance with the *Act*.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent? Is the landlord entitled to a monetary order for unpaid rent? Is the landlord entitled to recover his filing fee for this application from the tenant?

Background and Evidence

The landlord testified that his company took over management of this property from the previous owner who self-managed the property in January 2011. The landlord said that he does not have complete records regarding this building or the circumstances surrounding this tenancy. He said that the respondent is a long-term tenant. Although the monthly rent is set at \$1,100.00 plus \$10.00 parking, the landlord said that it appears that the previous landlord was allowing the tenant to reduce his rent by \$200.00 each month. He speculated that this reduction may have resulted from janitorial services provided by the tenant to the previous landlord. The landlord testified that he identified \$910.00 in unpaid rent for each of November and December 2010, the amount shown on the 10 Day Notice. He said that the tenant has not paid any of the \$1,820.00 shown as owing on that Notice. He testified that as of January 2011, he is certain that the tenant has not been providing services to the landlord which would

reduce his rent. The landlord said that he does not know if or when a security deposit was provided by the tenant.

The landlord applied for a monetary order of \$4,040.00. He also asked that unpaid rent for March 2011 be added to his application for unpaid rent for the previous four month.

Analysis

Order of Possession

The tenant failed to pay the November and December 2010 rent within five days of receiving the 10 Day Notice to End Tenancy. The tenant has not made application pursuant to section 46(4) of the *Act* within five days of receiving the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenant's failure to take either of these actions within five days led to the end of his tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by December 23, 2010. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

Monetary Award

The landlord was unable to provide a copy of the Residential Tenancy Agreement or confirm the circumstances regarding the monthly \$200.00 deduction to the tenant's rent prior to the landlord's management of this property. As such, I am not satisfied that there is enough evidence to allow the landlord's application for a monetary award of \$1,110.00 per month in unpaid rent. Rather, I allow the landlord a monetary award of \$910.00 for each of the five months of unpaid rent commencing in November 2010. This results in a monetary award of \$4,550.00. Since the landlord has been successful in his application, I allow him to recover his \$50.00 filing fee from the tenant which I add to the monetary Order issued.

Conclusion

I provide the landlord with a formal copy of an Order of Possession. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary Order in the landlord's favour in the following terms which allows the landlord to recover unpaid rent from November 2010 until March 2011, and to recover the filing fee for this application.

Item	Amount
Unpaid November 2010 Rent	\$910.00
Unpaid December 2010 Rent	910.00
Unpaid January 2011 Rent	910.00
Unpaid February 2011 Rent	910.00
Unpaid March 2011 Rent	910.00
Recovery of Filing Fee for this application	50.00
Total Monetary Order	\$4,600.00

The landlord is provided with these Orders in the above terms and the tenant must be served with a copy of these Orders as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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*.