

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

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

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 9:41a.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 testified that a 10 Day Notice for Unpaid Rent was posted on the tenant's door on February 2, 2011. The landlord sent written evidence to confirm that a copy of the dispute resolution hearing package was sent to the tenant by registered mail on February 18, 2011. He provided the Canada Post Tracking Numbers for this mailing. I am satisfied that these documents were served 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 retain the tenant's security deposit in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The landlord testified that this periodic tenancy commenced on February 1, 2006. Monthly rent at this time is set at \$721.34, payable on the first of each month. The landlord continues to hold the tenant's \$312.50 security deposit plus interest.

The landlord testified that the tenant has not paid any portion of the February 2011 rent and requested a monetary award for that amount plus recovery of the filing fee.

Analysis

Order of Possession

The tenant failed to pay the February 2011 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 February 16, 2011. 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

Based on the undisputed evidence of the landlord, I issue a monetary award in the landlord's favour in the amount of \$721.34 for unpaid rent owing from February 2011. I allow the landlord to retain the tenant's security deposit plus interest in partial satisfaction of this monetary award. Since the landlord has been successful in this application, I allow the landlord to recover the filing fee for this application from the tenant.

Conclusion

I provide the landlord with a formal copy of an Order of Possession to take effect within 2 days of the landlord's service of this notice to the tenant(s). 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 and the filing fee for the landlord's application and to retain the tenant's security deposit plus interest:

Item	Amount
Unpaid February 2011 Rent	\$721.34
Less Security Deposit Plus Interest (\$312.50 + \$10.92 = \$323.42)	-323.42
Recovery of Filing Fee for this application	50.00
Total Monetary Order	\$447.92

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*.