



Dispute Resolution Services

Page: 1

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.

Both parties attended the hearing and provided affirmed testimony. They were given a full opportunity to be heard, to present evidence and to make submissions.

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 a one bedroom apartment. Pursuant to a written agreement, the fixed term tenancy started on December 1st, 2007. The current monthly rent is \$1164.00 payable on the first of each month. The tenant paid a security deposit in the amount of \$525.00.

The resident manager testified that to date the tenant paid \$500.00 towards the rent in arrears; that she still owes \$2890.00 for unpaid rent between February and April 2011; and that the tenant has been repeatedly late paying rent.

The tenant did not dispute the resident manager's testimony, with the exception that she has a receipt to prove that she paid \$600.00 and not \$500.00. She testified that she now has secured employment and that she needs more time to repay.

The landlord agreed to the \$100.00 discrepancy in favour of the tenant. An opportunity to settle this matter informally was discussed however the landlord declined and made an oral request for an order of possession.

Analysis

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 has not filed an application for dispute resolution.

On that basis and the parties' testimony I find that the landlord is entitled to an order of possession and a monetary order.

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 established a claim of \$2790.00. Since he was successful, he is entitled to recover the \$50.00 filing fee for a claim totalling \$2840.00. I authorize the landlord to keep the tenant's \$525.00 security deposit and pursuant to Section 67 of the Act, I award the landlord a monetary order of \$2315.00.

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: April 04, 2011.

Residential Tenancy Branch