



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNSD, MNR, OPR, 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 retain the security / pet deposit - Section 38
4. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act.

The Landlord and Tenant were each 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 December 1, 2010. Rent in the amount of \$1,100.00 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 \$550.00. The Tenant failed to pay rent for the month of March 2011. The Tenant also failed to pay a balance owing for utilities in the amount of \$32.68, rental arrears for the month of February 2011 in the amount of \$400.00, and two (2) late fees of \$25.00 each for the months of February and March 2011. On March 2, 2011 the Landlord served the Tenant with a notice to end tenancy for non-payment of rent by posting it on the door of the unit. The Tenant has not filed an Application for Dispute Resolution and states that he continues to reside at the unit as he was seriously injured at work. The Tenant confirmed that the

second Tenant named in the application has not been a Tenant since December 2010. The Tenant has not paid the rent for April 2011 and the Landlord's application requests compensation for that month's rent. At the Hearing the Landlord asked for an Order of Possession for April 8, 2011. The quantum of the Landlord's monetary claim is **\$2,682.68**.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Based on the Landlord's testimony I find that the Tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The Tenant has not paid the outstanding rent and 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.

Given the above facts, I find that the Landlord is entitled to an **Order of Possession** with a specific date of April 8, 2011.

I find that the Landlord has established a monetary claim for rental arrears of \$1,500.00 (February and March 2011), late fees of \$50.00 and a utility bill of \$32.68. Given the Landlord's request for a possession date of April 8, 2011, I find that the Landlord has also established a claim for a loss of rental revenue for April 2011 in the amount of \$275.00. The Landlord has established a total monetary claim in the amount of \$1,857.68. The Landlord is entitled to recovery of the \$50 filing fee, for a total entitlement of **\$1,907.68**.

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

Calculation for Monetary Order

Rental Arrears	\$1,500.00
Late fees	50.00
Utilities	32.68
Loss of rent revenue	275.00
Filing Fees for the cost of this application	50.00
Less Security Deposit and interest <i>to date</i>	-550.00
Total Monetary Award	\$1,357.68

Conclusion

I grant an Order of Possession to the Landlord with a specific date of April 8, 2011. 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 \$550.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$1,357.68**. 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: April 01, 2011.

Residential Tenancy Branch