



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 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 - 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 each 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 Tenants did not participate in the conference call hearing.

The Landlord was 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 \$1,900.00 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 Tenants in the amount of \$950.00. The Landlord

also collected, on March 4, 2011, a pet deposit from the Tenants in the amount of \$200.00. The Tenants failed to pay rent for the month of March 2011 and on March 2, 2011 the Landlord personally served the Tenants with a notice to end tenancy for non-payment of rent. Information on the file indicates that the Tenants have not filed an Application for Dispute Resolution.

The Landlord states that by March 30, 2011, the Tenants had paid the full amount of March rent and he accepted this money for use and occupancy only. The Tenants further paid \$800.00 towards April 2011 rent and the Landlord again accepted this money for use and occupancy only. The quantum of the Landlord's monetary claim is \$1,100.00 for the money left owing for April rent and the Landlord asks for an Order of Possession with an effective date of April 30, 2011.

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 for April 2011 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 an effective date of April 30, 2011.**

I find that the Landlord has established a monetary claim for **\$1,100.00** in unpaid rent and is entitled to recovery of the \$50 filing fee, for a total entitlement of **\$1,150.00.**

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

Calculation for Monetary Order

| | |
|---|---------------|
| Rental Arrears | \$1,100.00 |
| Filing Fees for the cost of this application | 50.00 |
| Less Security and Pet Deposit and interest <i>to date</i> | -1,150.00 |
| Total Monetary Award | \$0.00 |

Conclusion

I grant an Order of Possession to the Landlord with an effective date of April 30, 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 \$1,100.00 in satisfaction of the claim.

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 15, 2011.

Residential Tenancy Branch