



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, 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 money owed or compensation for damage or loss under the Act, regulation or tenancy agreement and for unpaid rent; 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 bachelor suite in a multi-unit complex. Pursuant to a written agreement, the tenancy started in April 2009. The rent is \$620.00 and the tenant paid a security deposit of \$300.

The landlord testified that the tenant owed \$1240.00 in rent for May and June 2011, and that the he has paid \$300 since the filing of this application for dispute resolution, for a balance owing of \$940.00. She stated that she was awarded an order of possession last February for the same problem, but that the tenant was given another chance. She said that this time the tenant will not be offered another opportunity to catch up with arrears and the landlord insisted on her request for an order of possession.

The tenant testified that he agreed with the tenant's evidence. He stated that he has since secured employment, that he will be able to pay rent, and asked the landlord for leniency.

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 alone the landlord is entitled to an order of possession. I also accept the parties' testimony concerning unpaid rent and find that the landlord is entitled to a monetary order to recover the loss in rental income.

The parties are at liberty to exercise their rights under the Act at their discretion.

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.

I authorize the landlord to retain the tenant's \$300.00 security deposit for a balance owing of \$640.00. Since the landlord was successful, I award the landlord recovery of the \$50.00 filing fee. Pursuant to Section 67 of the Act, I grant the landlord a Monetary Order totalling \$690.00.

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: June 06, 2011.

Residential Tenancy Branch