

DECISION

Dispute Codes OPR, MNR, FF

Introduction

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

- an Order of Possession pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover their filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, although I waited until 11:11 a.m. in order to enable them to connect with this hearing. The landlords attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions. The landlords testified that they posed a 10 Day Notice to End Tenancy for Unpaid Rent on the tenants' door at 3:45 p.m. on May 3, 2011. They provided written evidence that they sent copies of their dispute resolution hearing package to each of the tenants by registered mail on May 13, 2011. They provided Canada Post Tracking Numbers to confirm this mailing. I am satisfied that they served these documents and their evidence package to the tenants in accordance with the *Act*.

At the commencement of the hearing, the landlords sought permission to add the female landlord's name and the name of the construction company that is the owner of the property to the original application for dispute resolution which listed only the male landlord as the applicant. In accordance with the *Act*, I allowed the landlord to revise the names of the applicants to include the female landlord, the male landlord and the construction company noted above in this application.

Issues(s) to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent? Are the landlords entitled to a monetary award for unpaid rent? Are the landlords entitled to recover their filing fee for this application from the tenants?

Background and Evidence

This month-to-month tenancy commenced on September 7, 2010. Monthly rent of \$800.00, \$15.00 for laundry service, and \$15.00 for parking is payable in advance on the first of each month. The landlords continue to hold the tenants' \$400.00 security deposit paid on September 7, 2010.

The male landlord testified that the tenants have not paid any portion of the rent identified as owing in the 10 Day Notice to End Tenancy for Unpaid Rent for May 2011. He said that the tenants have not paid any portion of their June 2011 rent.

Analysis - Order of Possession

The tenants failed to pay the May 2011 rent within five days of receiving the 10 Day Notice to End Tenancy. The tenants have 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 tenants' 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 tenants to vacate the premises by May 16, 2011. As that has not occurred, I find that the landlords are entitled to a 2 day Order of Possession. The landlords will be given a formal Order of Possession which must be served on the tenants. If the tenants do not vacate the rental unit within the 2 days required, the landlords may enforce this Order in the Supreme Court of British Columbia.

Analysis - Monetary Award

I find that the landlords are entitled to a monetary award of \$1,630.00 for unpaid rent and laundry for May and June 2011. I also allow the landlords to recover their \$50.00 filing fee for their application from the tenants.

Although the landlord's application does not seek to retain the security deposit, using the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain the tenants' \$400.00 security deposit plus interest in partial satisfaction of the monetary award. No interest is payable over this period.

Conclusion

I provide the landlords with a formal copy of an Order of Possession to take effect within 2 days of the landlords' 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 landlords' favour in the following terms which allows the landlords to recover unpaid rent and laundry fees, plus their filing fee for this application and allows the landlords to retain the tenants' security deposit.

Item	Amount
Unpaid May 2011 Rent and Laundry	\$815.00
Unpaid June 2011 Rent and Laundry	815.00
Less Security Deposit	-400.00
Recovery of Filing Fee for this application	50.00
Total Monetary Order	\$1,280.00

The landlord is provided with these Orders in the above terms and the tenants must be served with a copy of these Orders as soon as possible. Should the tenants 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*.