

DECISION

Dispute Codes OPR, OPC, MNR, MNSD, 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;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- authorization to recover their filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 9:42 a.m. in order to enable the tenant to connect with this hearing. The female landlord (the landlord0 attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. She testified that she handed the tenant a 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) on April 29, 2011. She testified that she sent the tenant a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on May 11, 2011 by registered mail. She testified that she sent the dispute resolution hearing package to the tenant by registered mail on May 17, 2011. She provided Canada Post Tracking Numbers to confirm her mailing of the 10 Day Notice and the dispute resolution hearing package. I am satisfied that the landlords served the above documents to the tenant in accordance with the *Act*.

Issues(s) to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent or cause? Are the landlords entitled to a monetary award for unpaid rent? Are the landlords entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested? Are the landlords entitled to recover their filing fee for this application from the tenant?

Background and Evidence

This month-to-month tenancy commenced on November 16, 2009. Monthly rent is set at \$450.00, payable on the first of each month. The landlords continue to hold the tenant's \$225.00 security deposit paid on November 16, 2009.

The landlords applied for a monetary award of \$450.00 for unpaid rent from May 2011. Since the hearing was scheduled, the landlord said that the tenant has not paid June 2011 rent. She asked that the amount of the monetary award requested be updated to reflect the tenant's non-payment of rent for June 2011 as well. She said that the tenant

has not paid anything to the landlords since the landlord sent the 10 Day Notice to the tenant.

Analysis - Order of Possession

The tenant has not made application pursuant to section 47(4) of the *Act* within ten days of receiving the 1 Month Notice. In accordance with section 47(5) of the *Act*, the tenant's failure to take this action within ten days led to the end of his tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by May 31, 2011.

In addition, the tenant failed to pay the May 2011 rent within five days of being deemed to have received the May 17, 2011, 10 Day Notice to End Tenancy on May 22, 2011. The tenant has not made application pursuant to section 46(4) of the *Act* within five days of May 22, 2011. In accordance with section 46(5) of the *Act*, the tenant's failure to take either of these actions within five days led to the end of his tenancy. In this case, this required the tenant to vacate the premises by June 2, 2011.

As the tenant has not yet vacated the premises in accordance with either of the above Notices, 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 tenant. If the tenant does 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

Based on the undisputed evidence submitted by the landlords, I issue a monetary award in the landlords' favour to allow them to recover \$900.00 in unpaid rent from May and June 2011 from the tenant. I also allow the landlords to retain the tenant's \$225.00 security deposit plus interest from the tenant to partially satisfy the monetary award granted. No interest is payable over this period.

As the landlords have been successful in their application, I allow them to recover their filing fee for their application from the tenant.

Conclusion

I provide the landlord 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 two months of unpaid rent and their filing fee and to retain the tenant's security deposit in partial satisfaction of this monetary award.

Item	Amount
Unpaid May 2011 Rent	\$450.00
Unpaid June 2011 Rent	450.00
Less Security Deposit	-225.00
Recovery of Filing Fee for this application	50.00
Total Monetary Order	\$725.00

The landlords are provided with these Orders in the above terms and the tenant must be served with a copy of these Orders as soon as possible. Should the tenant 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*.