

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

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

- an Order of Possession pursuant to section 55;
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement 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 the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 11:11 a.m. in order to enable the tenant to connect with this hearing. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord testified that she posted a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) on the tenant's door on May 2, 2011. She submitted a witnessed statement to confirm this posting. She testified that she served a copy of her dispute resolution hearing package to the landlord by registered mail on May 18, 2011 and provided a Canada Post Tracking Number to confirm this mailing. I am satisfied that the landlord served these documents to the tenant in accordance with the *Act*.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent? Is the landlord entitled to a monetary award for unpaid rent and losses arising out of this tenancy? Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

This tenancy commenced initially as a one year fixed term tenancy on October 1, 2007. By now this is a month-to-month tenancy with monthly rent set at \$648.00, payable in advance on the first. The landlord continues to hold the tenant's \$292.50 security deposit paid on May 28, 2002.

The landlord said that the tenant has failed to pay his May or June 2011 rent and has not paid the \$25.00 late fees for these months as set out in his residential tenancy agreement.

Analysis - Order of Possession

The tenant failed to pay the May 2011 rent within five days of receiving the Notice. The tenant has 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 tenant's 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 tenant to vacate the premises by May 16, 2011. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession. The landlord 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 landlord may enforce this Order in the Supreme Court of British Columbia.

Analysis- Monetary Award

I allow a monetary award in the landlord's favour of \$648.00 for each of May and June 2011, plus \$25.00 late fees for each of these months pursuant to the tenancy agreement. I allow the landlord to retain the tenant's security deposit plus interest in partial satisfaction of this monetary award. Since the landlord has been successful in this application, I allow the landlord to recover her filing fee 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 landlord's 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 landlord's favour in the following terms which allows the landlord to recover unpaid rent and losses arising out of this tenancy plus the filing fee for this application and to retain the tenant's security deposit in partial satisfaction of the monetary award.

Item	Amount
Unpaid May 2011 Rent	\$648.00
May Late Fee	25.00
Unpaid June 2011 Rent	648.00
June 2011 Late Fee	25.00
Less Security Deposit plus Interest (\$292.50 + \$10.36 = \$302.86)	-302.86
Recovery of Filing Fee for this application	50.00
Total Monetary Order	\$1,093.14

The landlord is 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*.