

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 1:48 p.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's representative, Mr. SM, testified that he posted a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenant's door at 12:28 p.m. on May 5, 2011. The landlord's representative, Ms. SA (the landlord), testified that she sent a copy of the landlord's dispute resolution hearing package to the tenant by registered mail on May 27, 2011. She provided a Canada Post Tracking Number to confirm this mailing. I am satisfied that the above documents and the landlord's evidence were provided 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 loss 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 month-to-month tenancy commenced on or about March 1, 2010. Monthly rent was set at \$1,100.00, payable in advance on the first of each month. No security deposit was paid for this tenancy.

The landlord's representatives provided oral and written evidence that they were asked to handle this matter for the landlord when the tenant's rent dating back many months remained unpaid. They issued the 10 Day Notice for \$13,950.00 in outstanding rent as

of May 5, 2011. Since then, the landlords have not received any payments from the tenant. Another \$1,100.00 became due on June 1, 2011, an amount that has not been paid and was included in the landlord's \$15,050.00 claim for a monetary Order. The landlords also requested recovery of the \$100.00 filing fee for this application. They also asked for an Order of Possession.

Analysis - Order of Possession

The tenant failed to pay the \$13,950.00 in outstanding rent within five days of receiving the 10 Day 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 18, 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 Order

Based on the undisputed oral and written evidence submitted by the landlord, I issue a monetary Order in the landlord's favour in the amount of \$15,050.00. The landlord presented evidence regarding rent due and payments received for this tenancy from March 2010 until the present. In total, over that period \$17,600.00 was owing in rent and a total of \$2,550.00 has been paid, the last of which was received in July 2010.

As the landlord has been successful in this application, I allow the landlord to recover the \$100.00 filing fee for this application, which I add to the monetary Order.

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 amount of \$15,150.00 for unpaid rent and recovery of the filing fee for this application.

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*.