



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, 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 unpaid rent; to keep the security deposit; 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 an apartment in a multi-unit complex. Pursuant to a written agreement, the fixed term tenancy started on April 1st, 2011. The rent is \$425.00 per month and the tenant paid a security deposit of \$212.50.

The landlord testified that the tenant has caught up with his rent arrears until August. The landlord amended her monetary claim as follows:

- Unpaid rent for August 2011: \$425.00

- Late fee: \$ 25.00
- Sub-total: \$450.00

The tenant did not dispute the landlord's testimony and stated that he would be in a position to pay the balance owing shortly. The landlord made a request for an Order of Possession, and stated that she will exercise her right to enforce the order based on the tenant's fulfillment of his arrears and the owner's direction.

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. Therefore the landlord is entitled to an order of possession.

Based on the parties' testimony the tenant has not paid rent for August 2011 and therefore the landlord is entitled to a monetary order as claimed at the hearing.

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.

The landlord established a claim of \$450.00. I authorize the landlord to retain the tenant's \$212.50 security deposit for a balance owing of \$237.50. 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 \$287.50.

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: August 16, 2011.

Residential Tenancy Branch