



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OP, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for orders as follows:

1. A monetary order pursuant to Section 67;
2. An Order of Possession pursuant to Section 55;
3. An Order allowing the landlord to retain the security deposit; and
4. An Order to recover the filing fee pursuant to Section 72.

The landlord gave evidence that he served four Notices to End Tenancy. The landlord supplied the Notices in evidence. They are all dated as being issued on July 26, 2011.

May 1, 2011 unpaid rent	\$378.00
May 1, 2011 rent NSF funds	25.00
June 1, 2011 unpaid rent	378.00
July 1, 2011 unpaid rent	378.00

In his Application for Dispute Resolution the landlord states that all Notices were served on July 26, 2011 by taping them to the door of the rental unit. The landlord testified that the tenants also received an invoice setting out the total arrears owed. The landlord testified that the Residential Tenancy Branch told him to complete one Notice to End Tenancy for each month of arrears rather than to issue a single Notice with the accumulated arrears. The landlord submitted that invoice into evidence which states in part:

Outstanding Rental Charges	
May 2011	\$378.00
NSF Charges Cheque #65	25.00
June 2011	378.00
July 2011	378.00
August 2011	378.00
Total	\$1537.00

Although the method of serving one Notice for each month of arrears as opposed to one notice of accumulated arrears is unorthodox, I find that, together with the invoice, the tenant did have notice of the total amount of outstanding arrears. Further, I accept the landlord's evidence that he served the tenant with the Application for Dispute Resolution by way of registered mail.

Despite having notice of this hearing the tenant did not appear. On the basis of the solemnly sworn evidence presented at the hearing a decision has been reached.

Issue(s) to be Decided

Whether the landlord has cause to end this tenancy and receive an Order of Possession and whether the landlord is entitled to monetary order for unpaid rent and recovery of the filing fee.

Background and Findings

Order of Possession

The landlord testified that following service of the Notices to End Tenancy the tenant paid \$1,000.00 towards the arrears, leaving a balance owing up to the end of August 2011 of \$537.00. Further, the tenant has not paid September's rent in the sum of \$378.00. Based on the undisputed evidence of the landlord I find that the tenant did not retire all arrears within 5 days of being served with the Notices to end Tenancy nor did he make application to set aside the notices. In these situations, the *Residential Tenancy Act* provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice which, on all notices, is August 15, 2011.

Monetary Order***Rental Arrears***

I find that the balance of the rental arrears owing including August arrears to be rental arrears and I therefore grant the landlord a monetary order in the sum of \$1,700.00.

May 1, 2011 unpaid rent	\$378.00
June 1, 2011 unpaid rent	378.00
July 1, 2011 unpaid rent	378.00
August 1, 2011 rent	378.00
Payment made	-1,000.00
September 1, 2011 unpaid rent	378.00
Total Remaining Owing	\$890.00

Security Deposit

As the landlord has been successful with this claim I will allow him to retain the security deposit in the sum of \$189.00.

Filing Fees

As the landlord has been successful in this application I will allow him to recover the filing fee paid for this application.

Calculation of total Monetary Award

Rental Arrears	890.00
Filing Fees for the cost of this application	50.00
Less Security Deposit	-189.00
Total	751.00

Conclusion

The landlord is provided with a formal copy of an order of possession. 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.

The landlord is provided with a formal copy of an order for the total monetary award as set out above. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Provincial Court of British Columbia.

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: September 08, 2011.

Residential Tenancy Branch