

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

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

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to retain all or a portion of the tenants' 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 tenants pursuant to section 72.

The tenants did not attend this hearing, although I waited until 9:41 a.m. in order to enable the tenants to connect with this hearing. The female landlord (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 handed a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) to the female tenant on August 19, 2011 and entered a copy of this Notice into written evidence. The landlord testified that she sent a copy of the landlords' dispute resolution hearing package to the tenants by registered mail on September 9, 2011. She provided Canada Post Tracking Numbers to confirm this mailing. I am satisfied that the landlords served these documents to the tenants in accordance with the *Act*.

Issues(s) to be Decided

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

Background and Evidence

The landlord testified that this month-to-month tenancy commenced on May 1, 2011. Monthly rent is set at \$1,800.00, payable in advance on the first of each month. The tenants are responsible for their own utility payments. The landlord continues to hold the tenants' \$900.00 security deposit paid on April 26, 2011.

The landlords applied for a monetary award of \$3,600.00, which included unpaid rent of \$1,800.00 for each of August and September 2011. The landlord testified that the tenants have not paid any portion of the August rent identified as owing in the 10 Day Notice, nor have they paid their September 2011 rent. The landlords also applied for

recovery of the \$50.00 filing fee for this application and an Order of Possession for unpaid rent.

Analysis – Order of Possession

The tenants failed to pay the August 2011 rent within five days of receiving the 10 Day Notice. The tenants have not made an 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 tenants' failure to take either of these actions within five days led to the end of this tenancy on the effective date of the notice. In this case, this required the tenants to vacate the premises by August 29, 2011. As that has not occurred, 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(s). If the tenants do 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 Order

Based on the undisputed evidence provided by the landlords, I find that the landlords are entitled to a monetary award of \$1,800.00 for both of August and September 2011. I also find that the landlords are entitled to recover their \$50.00 filing fee for their application from the tenants.

I allow the landlords to retain the tenants' \$900.00 security deposit plus interest in partial satisfaction of the monetary award issued in this decision. No interest is payable over this period.

Conclusion

I provide the landlords 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 unpaid rent and their filing fee for this application and to retain their filing fee for their application to partially offset this monetary Order.

Item	Amount
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Unpaid August 2011 Rent	\$1,800.00
Unpaid September 2011 Rent	1,800.00
Less Security Deposit	-900.00
Recovery of Filing Fee for this application	50.00
Total Monetary Order	\$2,750.00

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