

DECISION

Dispute Codes OPR, MND, MNSD, FF, CNR

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 damage to the unit, site or property 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 11:18 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 he was unaware of the tenant's application for dispute resolution. As the tenant did not attend the hearing, I dismiss his application for dispute resolution without leave to reapply.

The landlord entered into written evidence a copy of the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) that he handed to the tenant on August 29, 2011. He also entered into written evidence a Proof of Service document signed by both the landlord and the tenant to confirm that he handed the 10 Day Notice to the tenant at 520 p.m. on August 29. The landlord testified that he sent a copy of his dispute resolution hearing package to the tenant by registered mail on September 9, 2011. He provided a Canada Post Tracking Number and Customer Receipt to confirm this mailing. He said that this package was returned by Canada Post as unclaimed. I am satisfied that the landlord served the above documents 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? Is the landlord entitled to a monetary award for damage 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 fixed term tenancy commencing on July 1, 2011 is scheduled to end on January 1, 2012. Monthly rent is set at \$895.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$447.50 security deposit and \$447.50 pet damage deposit, both paid on June 27, 2011.

The landlord applied for a monetary award of \$2,992.00. This amount included the following:

Item	Amount
Unpaid August 2011 Rent	\$895.00
Unpaid September 2011 Rent	895.00
Lost October 2011 Rent	895.00
Bank Service Charges	307.00
Lawn Maintenance Charge	300.00
Recovery of Filing Fee for this application	50.00
Registered Mail Charge	9.73

The landlord testified that the tenant has not paid anything towards his rent since the landlord issued him the 10 Day Notice.

Analysis – Order of Possession

The tenant failed to pay the August 2011 rent within five days of receiving the 10 Day Notice. Although he applied to cancel the 10 Day Notice pursuant to section 46(4) of the *Act* within five days of receiving the Notice, he did not attend this hearing and has not demonstrated that he paid the outstanding rent. 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

I find that the landlord is entitled to a monetary award for \$895.00 in unpaid rent for both August and September 2011. Since the landlord has been unable to obtain possession of the rental unit or advertise its availability for rent, I find it unlikely that the landlord will be able to recover lost rent for October 2011. For that reason, I find that the landlord is also entitled to a monetary award of \$895.00 for lost rent for October 2011.

I allow the landlord a monetary award of \$7.00 for a bank service charge he received when the tenant stopped payment on his August 2011 rent cheque. Since the landlord did not provide receipts or invoices for any further bank service charges, I dismiss his

application for additional bank service charges without leave to reapply. For similar reasons, I dismiss the landlord's application for a lawn maintenance charge without leave to reapply because he provided no receipts to support his claim in this regard. I also dismiss the landlord's request for reimbursement of his registered mailing charges as these charges are not recoverable under the *Act*.

As the landlord has been successful in his application, I allow him to recover his filing fee for this application from the tenant. I also allow the landlord to retain the tenant's security and pet damage deposits in partial satisfaction of the monetary awards issued in this decision. No interest is payable over this period.

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 and lost rent and service charges and his filing fee for this application and to retain the tenant's security and pet damage deposits.

Item	Amount
Unpaid August 2011 Rent	\$895.00
Unpaid September 2011 Rent	895.00
Lost October 2011 Rent	895.00
Bank Service Charges	7.00
Less Security and Pet Damage Deposits	-895.00
Recovery of Filing Fee for this application	50.00
Monetary Order	\$1,847.00

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*.