



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD and FF

Introduction

This application was brought by the landlord on November 15, 2011 seeking an Order of Possession pursuant to a Notice to End Tenancy for unpaid rent served by posting on the tenant's door on November 4, 2011. The landlord also sought a Monetary Order for the unpaid rent, recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off against the balance owed.

Despite having been served with the Notice of Hearing sent by registered mail on November 18, 2011, the tenant did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, it proceeded in his absence.

At the commencement of the hearing, the landlord advised that the tenant had abandoned the rental unit without notice or without providing a forwarding address on or about November 24, 2011. In addition, the landlord advised that she had been issued with an Order of Possession by way of a Direct Request proceeding conducted on October 3, 2011 although the monetary award was not granted due to a lack of clarity of the claims.

Therefore, there is no need for consideration of the Order of Possession in the present hearing.

Issue(s) to be Decided

This application requires a decision on whether the landlord is entitled to a Monetary Order for the unpaid rent, recovery of the filing fee and authorization to retain the security deposit in set off.

Background and Evidence

This tenancy began on March 1, 2011. Rent was \$1,550 per month and the landlord holds a security deposit of \$775 paid on February 15, 2011

During the hearing, the landlord gave uncontested evidence that the Notice to End Tenancy of November 4, 2011 had been served after the tenant had a rent shortfall of \$900 for the rent due on August 1, 2011 and had paid not rent for September, October or November 2011.

As noted, the tenant vacated the rental unit on or about November 24, 2011.

Analysis

Section 26 of the *Act* provides that tenants must pay rent when it is due.

Section 67 of the *Act* empowers the director's delegate to determine an amount of money owed by one party to another for non-compliance with a rental agreement or the legislation, and to order that the non-compliant party that amount to the other.

Section 72 of the *Act* authorizes the director's delegate to order that a security deposit may be set off against an amount owed by a tenant to a landlord and that a filing fee may be awarded. As to filing fee, the landlord applied for an amount over \$5,000 and the fee was, therefore, \$100; however, part of the amount was for damages for which no evidence was submitted.

I find that the landlord is entitled to a monetary award, including recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off, calculated as follows:

Rent shortfall for August 2011	\$ 900.00
Rent for October 2011	1,550.00
Rent for November 2011	1,550.00
Filing fee	<u>100.00</u>
Sub total	\$5,650.00
Less retained security deposit (No interest due)	<u>- 775.00</u>
TOTAL	\$4,875.00

Conclusion

In addition to authorization to retain the security deposit in set off, the landlord's copy of this decision is accompanied by a Monetary Order for **\$4,875.00**, enforceable through the Provincial Court of British Columbia, for service on the tenant.

The landlord is at liberty to make application for any further losses or damage as may be ascertained at the conclusion of the tenancy.

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: December 02, 2011.
Corrected December 29, 2011

Residential Tenancy Branch