



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's 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 and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement 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 11:11 a.m. in order to enable the tenant to connect with this 11:00 a.m. 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 posted a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenant's door on November 2, 2011. The landlord testified that he sent the tenant a copy of the landlord's dispute resolution hearing package by registered mail on November 23, 2011. The landlord entered into written evidence a copy of the Canada Post Tracking Number to confirm this mailing. I am satisfied that the landlord served these documents in accordance with the *Act*.

Issues(s) to be Decided

Is the landlord entitled to obtain an Order of Possession? Is the landlord entitled to a monetary award for unpaid rent and losses 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 periodic tenancy commenced on August 1, 2010. Monthly rent is set at \$625.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$312.50 security deposit paid on or about September 1, 2010.

The landlord testified that the tenant has not paid any portion of the \$660.00 identified as owing on the 10 Day Notice. The landlord applied for a monetary award of \$1,401.00, which included the following items:

Item	Amount
Unpaid October 2011 Rent	\$56.00
Late Fee October 2011	25.00
Unpaid November 2011 Rent	635.00
Late Fee November 2011	25.00
Loss of Rent December 2011	635.00
Late Fee December 2011	25.00
Total Monetary Award Requested	\$1,401.00

The landlord also applied for recovery of the \$50.00 filing fee from the tenant.

Analysis - Order of Possession

The tenant failed to pay the full portion of the rent identified as owing in the 10 Day Notice within five days of being served with that Notice. The tenant has not made 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 tenant's failure to take either of these actions within five days led to the end of his tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by November 16, 2011. As that has not occurred, 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 Award

Based on the undisputed evidence provided by the landlord, I find that the landlord is entitled to a monetary award of \$1,401.00 for the items outlined above, including \$635.00 for unpaid rent for December 2011 and \$25.00 for the late payment of rent for December 2011.

I allow the landlord to retain the tenant's \$312.50 security deposit plus applicable interest in partial satisfaction of the monetary award issued to the landlord. No rent is payable over this period. As the landlord has been successful in this application, I allow the landlord to recover the filing fee for this application from the tenant.

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 rent and losses arising out of this tenancy, the landlord's filing fee for this application, and to retain the tenant's security deposit.

Item	Amount
Unpaid October 2011 Rent	\$56.00
Late Fee October 2011	25.00
Unpaid November 2011 Rent	635.00
Late Fee November 2011	25.00
Unpaid Rent December 2011	635.00
Late Fee December 2011	25.00
Less Security Deposit	-312.50
Filing Fee	50.00
Total Monetary Order	\$1,138.50

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*.

Dated: December 08, 2011

Residential Tenancy Branch