



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, MNSD, 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 to retain the security and/or pet deposit pursuant to Section 38; and
4. An Order to recover the filing fee pursuant to Section 72.

The landlord testified that the tenant did not pay November's rent and she therefore personally served the tenant with the 10 day Notice to End Tenancy on November 4, 2011. A copy of the Notice was submitted in evidence along with the landlord's notes of the tenant's comments "What do I do with this?" noted on the landlord's copy of the Notice. The landlord testified that she also personally served the Application for Dispute Resolution hearing package on the tenant on November 30, 2011.

The tenant testified that she arrived home on December 3, 2011 to find the 10 day Notice to End Tenancy dated November 2, 2011 and the Application for Dispute Resolution hearing package dated November 24, 2011 on the floor inside her rental unit.

The landlord says this is simply not true. The landlord says the tenant has frequently been late paying rent and the landlord has had to serve several notices over the course of this tenancy.

Based on a balance of probabilities, I find it is more likely that a landlord, being out of pocket of a rental payment, would not wait a full month to serve a 10 day Notice to End Tenancy dated November 2, 2011 with an effective date of November 12, 2011. Further the tenant admits that November's rent has not been paid in full and December's rent has not been paid at all. Overall I find I prefer the evidence of the

landlord in this matter and accept that the tenant was personally served with the 10 day Notice to End Tenancy on November 4, 2011.

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

I find that the landlord is entitled to an Order for Possession. There is outstanding rent. The tenant has not made application pursuant to Section 46 to set aside the Notice to End a Residential Tenancy and the time to do so has expired. 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.

Monetary Order

Rental Arrears

I find that the landlord has met the burden of proving that there are rental arrears. I find the landlord is entitled to recovery of those arrears. I will award the landlord a monetary order for rental arrears in the sum of \$1,200.00 representing half of November's rent in the sum of \$400.00 which remains outstanding and full rent of \$800.00 for December, 2011 which also remains unpaid.

Security Deposit

I find further that the landlord is entitled to retain the security deposit and interest to the date of this decision in partial satisfaction of the rental arrears.

Filing Fees

I find that the landlord is entitled to recover the filing fees paid for this application.

Calculation of total Monetary Award

Rental Arrears	\$1,2000.00
Less Security Deposit (no interest accrued)	-400.00
Total Monetary Award	850.00

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: December 07, 2011.

Residential Tenancy Branch