



Dispute Resolution Services

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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 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 tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover his filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, although I waited until 11:13 a.m. in order to enable them to connect with this hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions.

The landlord entered into written evidence a copy of the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) posted on the tenants' door on December 5, 2011 at 8:00 p.m. The landlord also submitted a witness statement attesting to the posting of the 10 Day Notice on the tenants' door at that time and date. The landlord testified that she handed the tenants a copy of the landlord's dispute resolution hearing package at 8:00 p.m. on January 11, 2012. She testified that the serving of this package was witnessed by Assistant Manager PM. I am satisfied that both of these documents were served by the landlord 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 and losses arising out of this tenancy? Is the landlord entitled to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenants?

Background and Evidence

This tenancy began originally as a one-year tenancy commencing on February 6, 1996. After the first year, this converted to a month-to-month tenancy. Monthly rent is now set at \$732.12, payable in advance on the first of each month. The landlord continues to hold the tenants' \$279.88 security deposit paid on or about January 20, 1996.

The landlord issued the 10 Day Notice for unpaid rent of \$732.12 for December 2011. The landlord said that the tenants have not paid any portion of either their December 2011 or January 2012 rent.

Analysis

The tenants failed to pay the December 2011 rent within five days of receiving the 10 Day Notice. The tenants have 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 tenants' failure to take either of these actions within five days led to the end of this tenancy on December 18, 2011 and required them to vacate the premises by that date. 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(s). If the tenants do not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

Based on the undisputed evidence presented by the landlord, I find that the landlord is entitled to a monetary award of \$732.12 for unpaid rent for each of December 2011 and January 2012.

I allow the landlord to retain the tenants' security deposit plus applicable interest from January 20, 1996 in partial satisfaction of the monetary award issued in this decision. As the landlord has been successful in this application, I allow the landlord to recover the \$50.00 filing fee from the tenants.

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 following terms which allows the landlord to recover unpaid rent and the filing fee for this application, and to retain the tenants' security deposit in partial satisfaction of this monetary award.

Item	Amount
Unpaid December 2011 Rent	\$732.12
Unpaid January 2012 Rent	732.12
Less Security Deposit plus Interest (\$ 279.88 + \$37.18 = \$317.06)	-317.06
Recovery of Filing Fee for this application	50.00
Total Monetary Order	\$1,197.18

The landlord is 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*.

Dated: January 26, 2012

Residential Tenancy Branch