



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 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 his filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, and to make submissions.

The landlord testified that he posted the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenant's door on January 12, 2012. The landlord provided written evidence that he sent a copy of his dispute resolution hearing package to the tenant by registered mail on January 24, 2012. The tenant confirmed that he received the 10 Day Notice, and copies of the landlord's dispute resolution hearing and evidence packages. I am satisfied that the landlord served these 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 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 February 25, 2011. Monthly rent is set at \$800.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$400.00 security deposit paid on March 15, 2011.

The landlord applied for a monetary award of \$1,600.00, which included unpaid rent for January and February 2012. The parties agreed that the tenant has not paid any portion of the \$800.00 identified as owing as of January 12, 2012 in the 10 Day Notice or any rent for February 2012.

Analysis

The tenant failed to pay the January 2012 rent within five days of receiving the 10 Day 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 corrected effective date of the notice. In this case, this required the tenant to vacate the premises by January 25, 2012. 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.

I find that the landlord is entitled to a monetary award in the amount of \$1,600.00, for unpaid rent owing from January and February 2012. I allow the landlord to retain the tenant's \$400.00 security deposit plus interest in partial satisfaction of this monetary award. No interest is payable over this period. As the landlord has been successful in this application, I allow him to recover his \$50.00 filing fee 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 two months of unpaid rent and his filing fee, and to retain the tenant's security deposit.

Item	Amount
Unpaid January 2012 Rent	\$800.00
Unpaid February 2012 Rent	800.00
Less Security Deposit	-400.00
Recovery of Filing Fee for this application	50.00
Total Monetary Order	\$1,250.00

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*.

Dated: February 14, 2012

Residential Tenancy Branch