



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 and utilities pursuant to section 55;
- a monetary order for unpaid rent and utilities, 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 the filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, although I waited until 1:45 p.m. in order to enable them to connect with this hearing scheduled for 1:30 p.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. Landlord's representative NR testified that she posted 10 Day Notices to End Tenancy for Unpaid Rent (the 10 Day Notices) on the tenants' door on December 2, 2011 and January 5, 2012. She submitted a statement witnessed by another individual attesting to her posting of the January 5, 2012 10 Day Notice on the tenants' door at 2:00 p.m. that day. Landlord's representative NR also testified that she handed the tenants a copy of the landlord's dispute resolution hearing package on January 27, 2012, the same date that the landlords sent the tenants copies of that package by registered mail. I am satisfied that the landlord has served the above documents in accordance with the *Act*.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent and utilities? Is the landlord entitled to a monetary award for unpaid rent and utilities 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 periodic tenancy commenced on September 15, 2011. Monthly rent is set at \$2,600.00, payable in advance on the first of each month. The landlord continues to hold the tenants' \$1,300.00 security deposit paid on September 9, 2011.

The landlord applied for a monetary award of \$7,875.00 for unpaid rent for December 2011, January 2012 and February 2012, plus an unpaid water bill of \$75.00 for these three months. Landlord's representative WS testified that the tenants have not paid anything towards the outstanding amounts owing since the landlord issued the first 10 Day Notice.

Analysis

The tenants failed to pay the December 2012 rent within five days of receiving the 10 Day Notice and failed to pay \$5,200.00 in rent identified as owing in the January 5, 2012 10 Day Notice within five days of receiving that Notice. The tenants have not made application pursuant to section 46(4) of the *Act* within five days of receiving either of these 10 Day Notices. 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 the effective date of the notice. In this case, this required the tenants to vacate the premises by December 15, 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(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 \$2,600.00 for each of the three months of unpaid rent and \$25.00 for each of the three months when the water charge was not paid by the tenants. I allow the landlord to retain the tenants' security deposit plus applicable interest in partial satisfaction of the monetary award issued in this decision. No interest is applicable. As the landlord has been successful in this application, I allow the landlord to retain the \$50.00 filing fee paid for this application 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 landlord's favour in the following terms which allows the landlord to recover unpaid rent, unpaid water bills, the landlord's filing fee for this application and to retain the tenants' security deposit.

Item	Amount
Unpaid December 2011 Rent	\$2,600.00
Unpaid December 2011 Water Charge	25.00
Unpaid January 2012 Rent	2,600.00
Unpaid January 2012 Water Charge	25.00
Unpaid February 2012 Rent	2,600.00
Unpaid February 2012 Water Charge	25.00
Less Security Deposit	-1,300.00
Recovery of Filing Fee for this application	50.00
Total Monetary Order	\$6,625.00

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: February 17, 2012

Residential Tenancy Branch