



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's application on behalf of her employer, HHI, pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order 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 1:44 p.m. in order to enable him 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. The landlord testified that she posted a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenant's door on January 5, 2011. The landlord testified that she sent the tenant a copy of the landlord's dispute resolution hearing package by registered mail on January 25, 2012. She provided 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 an Order of Possession for unpaid rent? Is the landlord entitled to a monetary award for loss 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 tenancy commenced initially as a one-year fixed term tenancy on December 1, 2007. After the expiration of that one year term, the tenancy converted to a periodic tenancy. Monthly rent is set at \$880.00, payable in advance on the first of each month, plus utilities. The landlord continues to hold the tenant's \$400.00 security deposit paid on November 1, 2007.

The landlord testified that the tenant has not paid anything towards the \$880.00 identified as owing on the 10 Day Notice. She also testified that the tenant has not made any payments for February 2012. The landlord applied for a monetary award of \$1,457.97 to reflect the amounts owing from this tenancy.

Analysis

The tenant failed to pay the January 2012 rent in full 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 effective date of the notice. In this case, this required the tenant to vacate the premises by January 18, 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 of \$880.00 in unpaid rent for both of January and February 2012. I allow the landlord to retain the tenant's security deposit plus applicable interest 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 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 the filing fee for this application and to retain the tenant's security deposit in partial satisfaction of the monetary award issued in this decision:

Item	Amount
Unpaid January 2012 Rent	\$880.00
Unpaid February 2012 Rent	880.00
Less Security Deposit plus Interest (\$400.00 + \$7.02 = \$407.02)	-407.02
Recovery of Filing Fee for this application	50.00
Total Monetary Order	\$1,402.98

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 17, 2012

Residential Tenancy Branch