

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This is an application filed by the Landlord for an order of possession and a monetary order for unpaid rent, to keep all or part of the security deposit and recovery of the filing fee.

Both parties attended the hearing by conference call and gave undisputed testimony. The Tenant has acknowledged receiving the Landlord's evidence package. The Tenant did not submit any evidence. As such, I find that both parties have been properly served under the Act with the notice of hearing and any evidence.

At the beginning of the hearing the Landlord states that she received a partial rent payment of \$1,045.00 in the form of a money order on February 23, 2012. The Landlord states that they have not accepted/processed this payment and was awaiting the outcome of this hearing.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?
Is the Landlord entitled to a monetary order for unpaid rent?
Is the Landlord entitled to retain the security deposit?

Background and Evidence

This Tenancy began on July 1, 2009 on a month to month basis as shown in the submitted copy of the signed tenancy agreement. The monthly rent is \$1,045.00 payable on the 1st of each month. A security deposit of \$513.00 was paid on June 15, 2009.

The Landlord states that a 10 day notice to end tenancy for unpaid rent was served on the Tenants on January 4, 2012. The notice displays that rent of \$1,045.00 was due and unpaid on January 1, 2012. The Tenant confirms receipt of the notice. The Tenant also confirms that rent went unpaid, until the partial rent payment of \$1,045.00 on February 23, 2012. The Landlord wishes to apply the partial rent payment of \$1,045.00 received on February 23, 2012 to the outstanding rent arrears.

Analysis

I accept the undisputed testimony of both the Landlord and the Tenants. The Landlord has established a claim for an order of possession for unpaid rent. I find that the Tenants were served with the notice to end tenancy for unpaid rent and that the Tenants failed to pay the outstanding rent within 5 days of receiving the notice and did not apply for dispute resolution to dispute the notice. The Tenants confirmed both in their direct testimony. Based on the above facts I find that the Landlord is entitled to an order of possession. As the effective date of the notice has elapsed, I order that the order of possession be effective within 2 days of it being served upon the Tenant. The Tenant must be served with the order of possession. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

As for the monetary order, I find that the Landlord has established a claim for unpaid rent for \$2,090.00 for January and February 2012. I order that the Landlord keep/process the money order for \$1,045.00 already received from the Tenant. The Landlord is entitled to recovery of the \$50.00 filing fee. I order that the Landlord retain the \$513.00 security deposit currently held in partial satisfaction of the claim and I grant the Landlord a monetary order under section 67 for \$582.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Landlord is granted an order of possession and a monetary order for \$582.00. The Landlord may retain the security deposit.

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 24, 2012.

Residential Tenancy Branch