



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, 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 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 11:10 a.m. in order to enable the tenant 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 Proof of Service document in which the tenant signed that she had been handed the landlord's 10 Day Notice to End Tenancy for Unpaid Rent on January 27, 2012. The landlord testified that she sent the tenant a copy of the landlord's dispute resolution hearing package by registered mail on February 14, 2012. She provided the Canada Post Tracking Number to confirm this mailing. She testified that the tenant signed for receipt of this package on February 15, 2012. 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? 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 for a subsidized housing unit commenced on June 1, 2008. The tenant's portion of the monthly rent is currently set at \$216.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$318.00 security deposit paid on May 12, 2008.

The landlord issued the 10 Day Notice for unpaid rent of \$1,869.00 owed as of January 1, 2012. The landlord testified that the tenant has not paid anything towards that amount owing and has failed to pay rent for February or March 2012. The landlord requested that the application for a monetary award of \$1,869.00 be amended to \$2,085.00 to reflect the tenant's non-payment of rent for February 2012.

Analysis

The tenant failed to pay in full the \$1,869.00 in outstanding rent identified in the 10 Day Notice within five days of receiving that 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 her tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by February 10, 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.

Based on the undisputed written evidence submitted by the landlord, I am satisfied that the landlord is entitled to a monetary award of \$2,085.00 in unpaid rent owed as of February 1, 2012.

I allow the landlord to recover the tenant's security deposit plus 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 award 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:

Item	Amount
Unpaid Rent Owing as of January 1, 2012	\$1,869.00
Unpaid February Rent	216.00
Less Security Deposit (\$318.00 + \$3.05 = \$321.05)	-321.05
Recovery of Filing Fee for this application	50.00
Total Monetary Order	\$1,813.95

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: March 02, 2012

Residential Tenancy Branch