



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 conference call hearing was convened in response to the landlord's application for an Order of Possession for unpaid rent; a Monetary Order for unpaid rent; to keep the security deposit; and to recover the filing fee associated with this application.

Both parties attended the hearing and provided affirmed testimony. They were given a full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a Monetary Order, and if so for what amount?

Is the landlord entitled to keep all or part of the security deposit?

Is the landlord entitled to recover the filing fee?

Background and Evidence

The rental unit consists of three bedroom townhouse. Pursuant to a written agreement, the tenancy started on September 1, 2011. The rent is \$1650.00 per month and the tenants paid a security deposit of \$825.00.

The landlord testified that the tenant paid \$380.00 in rent for February 2012 and none for March.

In his documentary evidence, the landlord provided a copy of the 10 Day Notice to End Tenancy served on the tenants on February 7, 2012 by posting the notice on the tenants' door.

The landlord submitted a claim of \$1270.00 for the balance of the rent owing for February 2012, and by the date of this hearing the tenants also owe full rent for March 2012.

The tenant testified that she has experienced financial hardships due to her boyfriend being in a car accident and loss of employment. She stated that she is striving to restore these setbacks and to compensate the landlord for the arrears as quickly as possible.

Analysis

Section 46(5) of the *Residential Tenancy Act* provides that if a tenant who has received a notice to end tenancy for non-payment of rent does not pay the rent or makes an application for dispute resolution within 5 days, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date. The tenant in this matter has not filed an application for dispute resolution. The landlord's Notice to End Tenancy is valid and on that basis the landlord is entitled to an order of possession.

I also accept that the tenant owes unpaid rent as claimed and that the landlord is entitled to a monetary order for February and March 2012. The parties were informed that they are at liberty to make arrangements with each other to settle this tenancy and the payment of rental arrears, and that the landlord is at liberty to choose whether to accept such arrangement and to continue the tenancy, or to enforce the orders attached to this decision.

Conclusion

I grant the landlord an Order of Possession effective two days from the date the order is served upon the tenant.

If necessary, this Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The landlord established a claim of \$2920.00. I authorize the landlord to retain the tenants' \$825.00 security deposit for a balance owing of \$2095.00. Since the landlord was successful, I award the landlord recovery of the \$50.00 filing fee. Pursuant to Section 67 of the Act, I grant the landlord a Monetary Order totalling \$2145.00.

If necessary, This Order may be registered in the Small Claims Court and enforced as an order 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 13, 2012.

Residential Tenancy Branch