



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67;
3. An Order to retain the security deposit - Section 38; and
4. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on March 15, 2010. Rent in the amount of \$780.00 is payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected a security deposit from the Tenant in the amount of \$385.00. Between October 2011 and February 2012, the Tenant failed to pay full rent and the Landlord states that on February 24, 2012 the Landlord served the Tenant with a notice to end tenancy for non-payment of rent (the “Notice”) by posting the Notice on the door. The Tenant also failed to pay the rent for March and April 24, 2012. The Landlord did not file any records of accounting and states that the Tenant owes \$3,247.00. At the

Hearing, the Landlord provided dates and figures for rents paid and unpaid between October 1, 2011 and April 1, 2012 and these figures added up to the Tenant owing \$2,467.50. The Tenant states that he owes \$2,235.00 in rental arrears and cannot pay his rent consistently due to his high costs of medication. The Tenant has not filed an Application for Dispute Resolution.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Based on the Landlord's evidence I find that the Tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The Tenant has not filed an application to dispute the notice and has not paid the outstanding rent. Given these facts, I find that the Landlord is entitled to an **Order of Possession**. Given the Landlord's financial confusion, I prefer the evidence of the Tenant on outstanding rent and based on this evidence I find that the Landlord has established a monetary claim for **\$2,235.00** in unpaid rent. The Landlord is also entitled to recovery of the \$50.00 filing fee for a total monetary amount of **\$2,285.00**. Setting the security deposit plus interest of \$385.00 off the entitlement leaves the amount of **\$1,900.00** payable by the Tenant to the Landlord.

Conclusion

I grant an Order of Possession to the Landlord. The Tenant must be served with this **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.

I **order** that the Landlord retain the **deposit** and interest of \$385.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$1,900.00**. If necessary, this order may be filed 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*.

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: April 23, 2012.

Residential Tenancy Branch