

DECISION

Dispute Codes OPR, MND, MNR, MDC, FF

Introduction

This is an application filed by the Landlord for an order of possession and a monetary order for unpaid rent, for damage to the unit, site or property, for money owed or compensation for damage or loss under the Act, Regulations or Tenancy Agreement and recovery of the filing fee.

Both parties have attended the hearing by conference call and have given testimony. The Landlord has submitted a documentary evidence package which the Tenant has acknowledged receiving. The Tenant has not submitted any documentary evidence. As both parties have attended the hearing and have received the documentary evidence submitted, I am satisfied that both parties have been properly served as deemed under the Act.

It was clarified by the Landlord at the beginning of the hearing that a portion of the monetary claim is not for this tenancy and the Landlord has withdrawn this portion of their application. The Landlord seeks an order of possession and a monetary order for unpaid rent, NSF charges and money owed for the changing of the locks 3 times.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to a monetary order?

Background and Evidence

This Tenancy began on June 1, 2011 on a month to month basis as shown in the submitted copy of the signed tenancy agreement.

The Landlord seeks an order of possession after having served the Tenant a 10 day notice to end tenancy for unpaid rent dated April 10, 2012. The effective date of the notice is April 23, 2012. The notice states that \$568.00 was due on April 1, 2012 consisting of outstanding rent unpaid. The Tenant has confirmed that she received the notice and has been trying to negotiate a payment plan. The Landlord states that there is no agreement for a payment plan and that the Landlord is seeking to end the tenancy. The Landlord states that rent is currently in arrears for \$893.00 consisting of \$143.00 outstanding rent from January 2012, \$750.00 of outstanding rent from April (\$375.00) and May (\$375.00) and has submitted a letter dated May 3, 2012 that was sent to the

Tenant stating the outstanding charges owed and two warning letters dated February 7, 2012 and April 16, 2012 for unpaid amounts owing. The Landlord also seeks \$40.00 consisting of a \$20.00 NSF charge for the month of January and the same for February of 2012. The Landlord has also submitted three invoices that are each for \$35.00 totalling, \$105.00 for lock changes that were made at the Tenant's requests each time. The Tenant disputes that all of the rent for January was paid, but confirms that rent for April and May are outstanding. The Tenant has also confirmed that she requested that the locks be changed because of two break-ins and one time when her daughter lost the key.

Analysis

I accept the undisputed testimony of the Landlord (which was confirmed by the Tenant) and find that the Tenant was served a 10 day notice to end tenancy dated April 10, 2012 and that the outstanding rent was unpaid. The Tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Based upon the above facts I find that the Landlord is entitled to an order of possession. The Tenant must be served with the order. 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 based upon the documentary evidence in support of the Landlord that a claim has been established for \$893.00 in unpaid rent. The Landlord has also satisfied me that \$40.00 in NSF charges resulted and \$105.00 for 3 lock changes were made at the Tenant's request. The Landlord is also entitled to recovery of the \$50.00 filing fee. The Landlord has established a total monetary claim for \$1,088.00. 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 \$1,088.00.

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: May 29, 2012.

Residential Tenancy Branch