

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 testimony. The Tenant has confirmed receipt of the Landlord's notice of hearing and evidence package. The Tenant has not submitted any documentary evidence. As both parties have attended the hearing and have confirmed receipt of submitted evidence, I am satisfied that both parties have been properly served as deemed under the Act.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to a monetary order?

Is the Landlord entitled to retain the security deposit?

Background and Evidence

This Tenancy began on January 1, 2011 on a fixed term tenancy ending on December 31, 2011 and then thereafter on a month to month basis as shown by the submitted copy of the signed tenancy agreement. The monthly rent is \$920.00 payable on the 1st of each month and a security deposit of \$460.00 was paid.

The Landlord seeks an order of possession and a monetary order for \$2,835.00. This consists of \$920.00 for unpaid May rent, \$25.00 for May Parking fee, \$25.00 for May Late rent fee, \$920.00 for unpaid June rent, a \$25.00 June Late rent fee and \$920.00 for the loss of rental income for July 2012.

The Landlord states that the Tenant was served with a 10 day notice to end tenancy for unpaid rent on May 18, 2012 by posting it on the rental unit door. The Landlord states that this was witnessed by the building manager and has also provided a proof of service document. The notice dated May 18, 2012 shows that the Tenant failed to pay

rent in the amount of \$970.00 that was due on May 1, 2012 and that there was an effective date of May 31, 2012.

The Landlord states that the rent remains unpaid and that the Tenant is still in possession of the rental unit. The Tenant has confirmed in her direct testimony that she did receive the 10 day notice to end tenancy dated May 18, 2012 as stated by the Landlord and have not paid any rent, parking fees or late fees for May or June of 2012. The Tenant states that she did not apply for dispute resolution to dispute the notice. The Tenant disputes that she is responsible for the loss of rental income for July 2012 of \$920.00.

Analysis

I accept the Landlord's undisputed testimony and I find that the Tenant was served with a notice to end tenancy for unpaid rent. The Tenant has confirmed in her direct testimony that rent was not paid within 5 days of receiving the notice and did not apply for dispute resolution to dispute the notice and is presumed to have accepted that the Tenancy ended on the effective date of the notice. Based upon the documentary and direct testimony of both parties, I find that the Landlord is entitled to an order of possession. 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.

I find that the Landlord's request for the loss of July 2012 rental income of \$920.00 is premature as of the date of this hearing. I find that it is undetermined at this time whether the Tenant shall vacate the rental unit in time for the Landlord to re-rent the unit or that any loss has yet to occur. Accordingly I dismiss this portion of the monetary application with leave to reapply.

I am satisfied that the Landlord has established a claim for unpaid rent of \$1,840.00 for May and June (\$920.00 X 2), a parking fee of \$25.00 for May 2012 and \$50.00 in late rent fees for May and June (\$25.00 each). The Landlord has established a monetary claim for \$1,965.00 which includes recovery of the \$50.00 filing fee. I order that the Landlord retain the \$460.00 security deposit in partial satisfaction of the claim and I grant a monetary order under section 67 for the balance due of \$1,455.00. This order may be filed in the Small Claims

Conclusion

The Landlord is granted an order of possession and a monetary order for \$1,455.00. 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: June 25, 2012.

Residential Tenancy Branch