



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 his filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 3:16 p.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 3:00 p.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord provided copies of the Canada Post Tracking Number to confirm that he sent the tenant a 10 Day Notice to End Tenancy (the 10 Day Notice) by registered mail on May 4, 2012 and a copy of his dispute resolution hearing package by registered mail on May 30, 2012. I am satisfied that the landlord served these documents to the tenant 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 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

The landlord said that the tenant first moved into the rental unit on the basis of a one-year fixed term tenancy agreement to the tenant and a co-tenant on October 1, 2009. At the expiration of the initial term, the tenancy continued as a periodic tenancy. By July 2011, the landlord said the co-tenant had vacated the premises and the periodic tenancy continued with the tenant. Monthly rent is currently set at \$1,200.00, payable in advance on the first of each month. The tenant is responsible for hydro, phone and cable. The landlord continues to hold the original \$600.00 security deposit paid on September 21, 2009.

The landlord issued the 10 Day Notice due to the tenant's failure to pay his \$1,200.00 rent for May 2012. The landlord testified that the tenant has failed to make any payments since the 10 Day Notice was issued. The landlord's application for a monetary award of \$2,400.00 is for unpaid rent for May and June 2012.

Analysis

The tenant failed to pay the May 2012 rent in full within five days of receiving the 10 Day 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 his tenancy on the corrected effective date of the notice. In this case, this required the tenant to vacate the premises by May 19, 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 landlord's undisputed evidence, I find that the landlord is entitled to a monetary award of \$2,400.00 for rent owing for May and June 2012. I allow the landlord to retain the security deposit held for this tenancy plus applicable interest to partially satisfy this monetary award. No interest is payable. As the landlord has been successful in this application, I allow him to recover his filing fee 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 Order in the landlord's favour under 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 May 2012 Rent	\$1,200.00
Unpaid June 2012 Rent	1,200.00
Less Security Deposit	-600.00
Recovery of Filing Fee for this application	50.00
Total Monetary Order	\$1,850.00

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: June 22, 2012

Residential Tenancy Branch