



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

The tenant did not attend this hearing, although I waited until 11:15 a.m. in order to enable her to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord testified that she posted a 2 Month Notice to End Tenancy Because the Tenant Does not Qualify for Subsidized Rent (the 2 Month Notice) on the tenant's door on May 23, 2012. She testified that she posted a 10 Day Notice to End Tenancy for Unpaid rent (the 10 Day Notice) on the tenant's door on June 4, 2012. The landlord testified that she sent the tenant a copy of the landlord's dispute resolution hearing package by registered mail on June 28, 2012. She provided the Canada Post Tracking Number to confirm this mailing. She said that Canada Post returned this package as undelivered. I am satisfied that the landlord served the above 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 all or a portion of 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?

Background and Evidence

This periodic tenancy commenced on August 1, 2011. The economic rent for this previously subsidized rental unit is set at \$980.00, payable in advance on the first of the month. When the tenant's qualification for subsidized rent ceased, the tenant became

responsible for the \$980.00 in rent due on June 1, 2012. The landlord continues to hold the tenant's \$490.00 security deposit.

The landlord applied for a monetary award of \$2,010.00. This amount included \$980.00 for each of June and July 2012 and recovery of the \$50.00 filing fee for this application. The landlord said that she understands that the tenant is no longer living at this rental unit.

Analysis

The tenant failed to pay the \$980.00 in monthly rent owing for June 2012 rent 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 June 17, 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 undisputed evidence before me, I find that the landlord is entitled to a monetary award of \$980.00 for each of June and July 2012. The landlord is authorized to retain the tenant's security deposit plus applicable interest in partial satisfaction of this monetary award. No interest is payable over this period. As the landlord has been successful in this application, I allow the landlord's application to recover the \$50.00 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 award 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 June 2012 Rent	\$980.00
Unpaid July 2012 Rent	980.00
Less Security Deposit	-490.00
Recovery of Filing Fee for this application	50.00
Total Monetary Order	\$1,520.00

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: July 18, 2012

Residential Tenancy Branch