



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, 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 landlord use of the property pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to retain all or a portion of the security deposit for this tenancy 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(s) pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to cross-examine one another. The respondents confirmed that the landlord's agent who attended the hearing (the landlord) handed them the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property (the 2 Month Notice). They both confirmed receiving the 2 Month Notice requiring them to end this tenancy by July 31, 2012. The respondents also confirmed that they received a copy of the landlord's dispute resolution hearing package sent by the landlord by registered mail on August 3, 2012. I am satisfied that the landlord served these documents to the respondents in accordance with the *Act*.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for landlord's use of the property? Is the landlord entitled to a monetary award for unpaid rent? Is the landlord entitled to retain all or a portion of the security deposit for this tenancy in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenant(s)?

Background and Evidence

The female tenant entered into this periodic tenancy with the landlord on December 31, 2011. Monthly rent is set at \$1,300.00, payable in advance on the first of each month. The landlord continues to hold a \$350.00 security deposit of the female tenant's. The parties agreed that the landlord has not agreed to add the male respondent to the

residential tenancy agreement between the parties, although he also resides in this rental unit with his child.

Pursuant to section 51(1) of the *Act*, no rent was charged or paid for this tenancy for July 2012, the anticipated final month of this tenancy. The parties agreed that the respondents have remained in the rental unit following the effective date of the 2 Month Notice, July 31, 2012. The parties also agreed that the respondents have not made any rent payment for August 2012.

The landlord applied for an Order of Possession on the basis of the 2 Month Notice. The landlord also applied for a monetary award of \$1,650.00. This amount included a request to recover \$1,300.00 in unpaid rent for August 2012 and authorization to retain the \$350.00 security deposit for this tenancy.

Analysis

The respondents have not made application pursuant to section 49(8) of the *Act* within fifteen days of receiving the 2 Month Notice to End Tenancy for Landlord's Use of Property. In accordance with section 49(9) of the *Act*, their failure to take this action within fifteen days led to the end of this tenancy on July 31, 2012 and required them to vacate the rental premises by that date. 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(s). If the tenants do 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 oral and written evidence, I accept that the landlord has not received any payment towards the rent for August 2012 for this tenancy. As such, I issue a monetary award of \$1,300.00 in the landlord's favour against the female tenant, the only signatory to the tenancy agreement between the parties for this tenancy.

I allow the landlord to retain the security deposit for this tenancy plus applicable interest in partial satisfaction of the monetary award issued in this decision. No interest is payable over this period. I allow the landlord to recover the \$50.00 filing fee for this application.

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 and to retain the tenant's security deposit:

Item	Amount
Unpaid August 2012 Rent	\$1,300.00
Less Security Deposit	-350.00
Recovery of Filing Fee for this application	50.00
Total Monetary Order	\$1,000.00

The landlord is provided with these Orders in the above terms and the female tenant (Tenant DM) must be served with a copy of these Orders as soon as possible. Should Tenant DM 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: August 30, 2012

Residential Tenancy Branch