



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 an application by the landlord pursuant to the *Residential Tenancy Act* for orders as follows:

1. A monetary order pursuant to Section 67;
2. An Order of Possession pursuant to Section 55;
3. An Order to retain the security and/or pet deposit pursuant to Section 38; and
4. An Order to recover the filing fee pursuant to Section 72.

I accept the landlord's evidence that the tenant was properly served with the Notice to End Tenancy by way of posting the Notice to the rental unit door on August 2, 2012.

Both parties attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions. Neither party requested an adjournment or a Summons to Testify.

On the basis of the solemnly sworn evidence presented at the hearing a decision has been reached.

Issue(s) to be Decided

Whether the landlord has cause to end this tenancy and receive an Order of Possession and whether the landlord is entitled to monetary order for unpaid rent and recovery of the filing fee.

Background and Findings

Order of Possession

The landlord testified that there was originally \$2,180.00 in arrears which the tenants agreed to repay by way of \$500.00 per month instalments on top of the usually \$1,000.00 per month rent. The landlord testified that the tenants made one \$500.00

instalment leaving a balance owing on the arrears of \$1,680.00 and they have not paid rent for either August or September 2012.

The tenant agrees that she has not paid the outstanding rent but says that the landlord has refused to accept partial payments from her. Further the tenant says that the \$500.00 per month instalments were too expensive and the landlord refused to negotiate a different repayment plan.

I find that the landlord is entitled to an Order for Possession. There is outstanding rent and there is no requirement under the Act for a landlord to accept partial payments of outstanding rent. Further, the tenants have not made application pursuant to Section 46 to set aside the Notice to End a Residential Tenancy and the time to do so has expired. In these situations, the *Residential Tenancy Act* provides that the tenant have been deemed to have accepted the end of the tenancy on the date set out in the Notice. The landlord is entitled to a two day Order of Possession but the tenant asked for more time to vacate. The landlord agreed to allow the tenants to remain until September 15, 2012. An Order of Possession will be issued effective on this date.

Monetary Order

Rental Arrears

Based on the undisputed evidence of the landlord I find that the landlord has met the burden of proving that there are rental arrears. I find the landlord is entitled to recovery of those arrears. I will award the landlord a monetary order for rental arrears in the sum of \$3,680.00 calculated as follows:

Rental arrears brought forward	\$1,680.00
September 2012 rent	1,000.00
Total	\$3,680.00

Security Deposit

I find further that the landlord is entitled to retain the security deposit and interest to the date of this decision in partial satisfaction of the rental arrears.

Filing Fees

As the landlord has been successful in this application I find that the landlord is entitled to recover the filing fees paid for this application.

Calculation of total Monetary Award

Rental Arrears	\$3,680.00
Less Security Deposit (no interest accrued)	-500.00
Total Monetary Award	\$3,230.00

Conclusion

The landlord is provided with a formal copy of an Order of Possession. This is a final and binding Order enforceable as any Order of the Supreme Court of British Columbia.

The landlord is provided with a formal copy of an order for the total monetary award as set out above. This is a final and binding Order enforceable as any Order of the Provincial Court of British Columbia.

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: September 10, 2012.

Residential Tenancy Branch