



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, MNR, FF

Introduction

This hearing was convened in response to an application by the landlord pursuant to the *Residential Tenancy Act* (the Act) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67;
3. An Order to recover the filing fee for this application - Section 72.

Both parties appeared, and were provided the opportunity to present their evidence orally and in written or documentary form, to discuss their dispute, and to make submissions to me. The tenant advised they are still residing in the unit.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on April 01, 2011. Rent in the amount of \$1165.00 is payable in advance on the first day of each month. The tenant failed to pay rent in the month of December 2012 and on December 03, 2012 the landlord served the tenant with a notice to end tenancy for non-payment of rent. The tenant made a payment of \$300.00 on December 11, 2012 which the landlord accepted. The tenant further failed to pay rent in the month of January 2013, but did pay the landlord an additional \$500.00 on January 11, 2013 for *use and occupancy only*. The quantum of the landlord's monetary claim is for rent arrears in the amount of \$1530.00. The landlord further seeks an Order of Possession.

Analysis

Based on the testimony of both parties and on the evidence I find that the tenant was

served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The tenant has not paid all the outstanding rent and did not apply for Dispute Resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice – December 13, 2012. Based on the above facts I find that the landlord is entitled to an **Order of Possession**.

I also find that the landlord has established a monetary claim for **\$1530.00** in unpaid rent. The landlord is also entitled to recovery of the \$50 filing fee, for a total entitlement of **\$1580.00**.

Calculation for Monetary Order

Rental Arrears	\$1530.00
Filing Fees for the cost of this application	50.00
Total Monetary Award	\$1580.00

Conclusion

I grant an Order of Possession to the landlord **effective 2 days from the day** it is served on the tenant. The tenant must be served with this **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 grant the landlord an Order under Section 67 of the Act for the balance due of **\$1580.00**. If necessary, this Order may be filed in the Small Claims Court and enforced as an Order of that Court.

This Decision is final and binding on both parties.

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: January 21, 2013

Residential Tenancy Branch

