



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LLA Investments Ltd.
and [tenant name suppressed to protect privacy]

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 1:43 p.m. in order to enable her to connect with this teleconference hearing scheduled for 1:30 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 entered into written evidence a copy of a January 2, 2013 document from the tenant advising the landlord of her intent to end this tenancy by January 17, 2013. The landlord also provided a copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) that he stated he handed to the tenant at 6:00 p.m. on January 4, 2013. The landlord also testified that he sent a copy of his dispute resolution hearing package to the tenant by registered mail on January 29, 2013. He provided the Canada Post Tracking Number and Customer Receipt to confirm this registered mailing. He also testified that he handed the tenant a copy of that package on January 29, 2013. 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 from the tenant?

Background and Evidence

This periodic tenancy commenced on October 1, 2010. Monthly rent is set at \$700.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$350.00 security deposit paid on October 1, 2010.

The landlord testified that he has not received any further payments towards this tenancy since he issued the 10 Day Notice. The application for a monetary award of \$1,650.00 included:

- unpaid rent of \$700.00 for each of January and February 2013;
- unpaid rent of \$150.00 for May 2012; and
- unpaid rent of \$100.00 for June 2012.

Analysis

The tenant failed to pay the amount identified as owing in the 10 Day Notice within five days of receiving that 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 her tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by January 15, 2013. 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 submitted by the landlord, I allow the landlord's application for a monetary award of \$1,650.00 for unpaid rent.

I allow the landlord to retain the tenant's security deposit plus applicable interest in partial satisfaction of the monetary award. No interest is payable over this period. As the landlord has been successful in this application, I allow the landlord to recover the \$50.00 filing fee from the tenant.

Conclusion

I grant an Order of Possession to the Landlord effective **two days after service of the Order** on the Tenant. 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
Outstanding Rent from May 2012	\$150.00
Outstanding Rent from June 2012	100.00
Unpaid January 2012 Rent	700.00
Unpaid February 2012 Rent	700.00
Less Security Deposit	-350.00
Recovery of Filing Fee for this Application	50.00
Total Monetary Order	\$1,350.00

The landlord is provided with these Orders in the above terms and the tenant must be served with this Order 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: February 21, 2013

Residential Tenancy Branch

