



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, 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; and
3. An Order to recover the filing fee pursuant to Section 72.

I accept the evidence of both parties that the tenant received the Notice to End Tenancy on January 4, 2013 and the Application for Dispute Resolution and Notice of Hearing on January 17, 2013.

Both parties 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, loss of revenue and recovery of the filing fee.

Background and Findings

Order of Possession

Based on the undisputed evidence of the landlord I find that the landlord is entitled to an Order for Possession. There is outstanding rent. 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 tenants have been deemed to have accepted the end of the tenancy on the date set out in the Notice.

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 \$2,200.00 representing unpaid rent in the sum of \$1,100.00 each for the period December 15, 2012 to January 14, 2013 and January 15, to February 14, 2013. The landlord has also claimed loss rent or revenue for the period February 15 to March 14, 2013. As the tenants have failed to vacate even though this tenancy is now over and it is now February 13, 2012, the landlord is unlikely to secure a new tenant to avoid a loss of revenue for the balance of February. I will therefore allow the landlord a monetary award for one half of the months' rent, that is \$550.00 with leave to reapply for further rent or loss of revenue if the tenants do not vacate in accordance with the Order of Possession and if the landlord is unable to secure a new tenant.

Security Deposit

Section 72 of the *Residential Tenancy Act* states as follows:

Director's orders: fees and monetary orders

- 72** (1) The director may order payment or repayment of a fee under section 59 (2) (c) [*starting proceedings*] or 79 (3) (b) [*application for review of director's decision*] by one party to a dispute resolution proceeding to another party or to the director.
- (2) If the director orders a party to a dispute resolution proceeding to pay any amount to the other, including an amount under subsection (1), the amount may be deducted
- (a) in the case of payment from a landlord to a tenant, from any rent due to the landlord, and

(b) in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.

If the landlord has a pet and/or security deposit he is at liberty to retain all or a part of it to satisfy the monetary award made herein.

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 Monetary Award in Favour of the Landlord

Rent	\$2,750.00
Filing Fees for the cost of this application	50.00
Total Monetary Award	\$2,800.00

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: February 13, 2013

Residential Tenancy Branch

