



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 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 landlord's evidence that the tenant was properly served with the Notice to End Tenancy by way of personal service.

I accept the landlord's evidence that the tenant was properly served with the Application for Dispute Resolution including the Notice of Hearing and the landlord's evidence by way of personal service.

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 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 tenant(s) has/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(s) has/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 \$2,720.00 representing rent of \$680.00 per month for each of November and December 2012 and January and February 2013.

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.

In accordance with Section 72(2)(b) I will allow the landlord to retain the security deposit paid by the tenant in partial satisfaction of this claim.

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

Rental Arrears	\$2,720.00
Filing Fees for the cost of this application	50.00
Less Security Deposit (no interest accrued) (and interest from * to the date of this Order)	-340.00
Total Monetary Award	\$2,430.00

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 25, 2013

Residential Tenancy Branch

