



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 the landlords' 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 their filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 9:46 a.m. in order to enable him to connect with this teleconference hearing scheduled for 9:30 a.m. The female landlord (the landlord) attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. She gave sworn oral testimony to confirm her written evidence that she handed the tenant the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) at or about 4:30 p.m. on December 5, 2012. She testified that her husband who is abroad handed the tenant a copy of the landlords' dispute resolution hearing package on January 30, 2013. She also testified that she and her husband sent the tenant another copy of the dispute resolution hearing package by registered mail on January 30, 2013. She provided the Canada Post Tracking Number to confirm that registered mailing. I am satisfied that the landlords served the tenant with the above documents in accordance with the *Act*.

Issues(s) to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent? Are the landlords entitled to a monetary award for unpaid rent? Are the landlords entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested? Are the landlords entitled to recover the filing fee for this application from the tenant?

Background and Evidence

This periodic tenancy commenced on or about December 1, 2010. The landlord testified that monthly rent is set at \$650.00, payable in advance on the 18th of each month. The landlords continue to hold the \$325.00 security deposit for this tenancy. The landlord testified that the landlords receive one-half of the monthly rent for this tenancy directly from the Ministry of Social Development (the Ministry) and the remaining one-half from the tenant.

The landlords' application for a monetary award of \$1,675.00 included requests for the following unpaid rent owing from this tenancy:

Item	Amount
Unpaid January 2012 Rent	\$50.00
Unpaid April 2012 Rent	325.00
Unpaid November 2012 Rent	325.00
Unpaid December 2012 Rent	325.00
Unpaid January 2013 Rent	325.00
Unpaid February 2013 Rent	325.00
Total Monetary Award Requested	\$1,675.00

The landlords issued the 10 Day Notice for \$800.00 in rent then owing. The landlord testified that the tenant has not paid any of the above amounts identified as owing since the 10 Day Notice was issued.

Analysis

Based on the undisputed evidence provided by the landlord, I find that the tenant failed to pay the \$800.00 identified as owing in the 10 Day Notice in full within five days of receiving the 10 Day 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 his tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by December 15, 2012, the corrected effective date of the 10 Day Notice. As that has not occurred, I find that the landlords are entitled to a 2 day Order of Possession. The landlords 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 landlords may enforce this Order in the Supreme Court of British Columbia.

Based on the landlords' undisputed evidence, I issue a monetary award in the amount of \$1,675.00, the requested amount of the landlords' application.

I allow the landlords to retain the security deposit for this tenancy plus applicable interest to partially satisfy this monetary award. No interest is payable over this period. I allow the landlords to recover the filing fee for their application from the tenant.

Conclusion

I grant an Order of Possession to the Landlord effective **two days after service of this 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 landlords' favour under the following terms, which allow the landlords to recover unpaid rent and their filing fee and to retain the security deposit for this tenancy:

Item	Amount
Unpaid January 2012 Rent	\$50.00
Unpaid April 2012 Rent	325.00
Unpaid November 2012 Rent	325.00
Unpaid December 2012 Rent	325.00
Unpaid January 2013 Rent	325.00
Unpaid February 2013 Rent	325.00
Less Security Deposit	-325.00
Filing Fee for this Application	50.00
Total Monetary Order	\$1,400.00

The landlords are 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 25, 2013

Residential Tenancy Branch

