



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Magsen Realty Inc.
and [tenant name suppressed to protect privacy]

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 attended the conference call hearing and participated with their testimony and prior submissions.

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 May 01, 2011. Rent in the amount of \$1550.00 is payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$775.00. The tenant failed to pay rent in the month of February 2013 and on February 06, 2013 the landlord served the tenant with a notice to end tenancy for non-payment of rent. The tenant further failed to pay rent in the month of March and April 2013. The quantum of the landlord's monetary claim is for the arrears of rent. The landlord also seeks an Order of Possession.

Analysis

Based on the testimony of both parties and the documentary evidence of the landlord, 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 the outstanding rent and has not applied 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. 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 **\$4650.00** in unpaid rent. The landlord is also entitled to recovery of the **\$50** filing fee. The security deposit will be off-set from the award made herein.

Calculation for Monetary Order

Rental Arrears	\$4650.00
Filing Fees for the cost of this application	50.00
Less Security Deposit and applicable interest <i>to date</i>	-775.00
Total Monetary Award	\$3925.00

Conclusion

I grant an Order of Possession to the landlord **effective 2 days from the day it is served on the tenant**. If the landlord determines to end the tenancy, the tenant must be served with this Order of Possession. Should the tenant then 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 Order that the landlord retain the **deposit** of \$775.00 in partial satisfaction of the claim and I grant the landlord an Order under Section 67 of the Act for the balance due of **\$3925.00**. 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: May 01, 2013

Residential Tenancy Branch