



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, 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 and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 1:46 p.m. in order to enable the tenant 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 sworn testimony, and to make submissions. The landlord testified that he posted a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenant's door on October 6, 2013. He provided photographs of the 10 Day Notice posted on the tenant's door. The landlord testified that he handed a copy of his dispute resolution hearing package to the tenant on November 4, 2013. He entered into written evidence a copy of a statement from an individual who witnessed his handing of the dispute resolution hearing package to the tenant on that date. I am satisfied that the landlord has 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 recover the filing fee for this application from the tenant?

Background and Evidence

This periodic tenancy commenced on June 19, 2013. Monthly rent is set at \$450.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$250.00 security deposit paid on June 19, 2013.

The landlord testified that he has not received any payments from the tenant towards this tenancy from September 2013 until the present. The landlord's application for a monetary award of \$1,800.00, included a request for \$450.00 for each of the four months from September until December 2013.

Analysis

The tenant failed to pay the full amount identified in the 10 Day Notice within five days of being deemed to have received the 10 Day Notice on October 9, 2013. The tenant has not made application pursuant to section 46(4) of the *Act* within five days of being deemed to have received 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 corrected effective date of the notice. In this case, this required the tenant to vacate the premises by October 19, 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 before me from the landlord, I find that the landlord is entitled to a monetary award of \$450.00 for unpaid for each of the four months from September 2013 until December 2013, a total of \$1,800.00.

Although the landlord's application does not seek to retain the tenant's security deposit, using the offsetting provisions of section 72 of the *Act*, 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 was successful in this application, I find that the landlord is entitled to recover the \$50.00 filing fee paid for this 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 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 his filing fee and to retain the tenant's security deposit:

Item	Amount
Unpaid September 2013 Rent	\$450.00
Unpaid October 2013 Rent	450.00
Unpaid November 2013 Rent	450.00
Unpaid December 2013 Rent	450.00
Less Security Deposit	-250.00
Recovery of Filing Fee for this Application	50.00
Total Monetary Order	\$1,600.00

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: December 16, 2013

Residential Tenancy Branch

