



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, 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 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 their filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The tenant confirmed that on January 9, 2014, the male landlord (the landlord) handed her the landlords' 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice). The tenant also confirmed that on January 20, 2014, the landlord handed her a copy of the landlords' dispute resolution hearing package. I am satisfied that the landlords served the above documents to the tenant 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 recover the filing fee for this application from the tenant?

Background and Evidence

The tenant testified that she moved into this basement rental unit on April 17, 2005. Monthly rent for this periodic tenancy is currently set at \$700.00, payable in advance on the first of each month. The landlords continue to hold the tenant's \$350.00 security deposit paid on or about April 17, 2005.

The landlords' application for a monetary award of \$2,100.00 was for unpaid rent owing from December 2013 and January 2014, plus anticipated loss of rent for February 2014.

The parties agreed that the tenant has not paid any rent since the landlords issued the 10 Day Notice and that four month's rent is currently owing. At the hearing, the landlord requested only the \$2,100.00 identified in their application for dispute resolution.

Analysis

The tenant failed to pay the \$1,400.00 in outstanding rent identified 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 her tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by January 19, 2014. As that has not occurred, I find that the landlord is entitled to an Order of Possession to take effect on March 15, 2014, the date requested by the landlord at this hearing. 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 by 1:00 p.m. on March 15, 2014, the landlords may enforce this Order in the Supreme Court of British Columbia.

Based on the undisputed evidence provided by the landlord, I find that the landlords are entitled to a monetary award of \$2,100.00 for rent owing from December 1, 2013 until February 28, 2014. As this tenancy will continue until March 15, 2014, and the tenant has not paid rent for any portion of March 2014, I also find that the landlords are entitled to a monetary award of \$350.00, representing unpaid rent owing for the first half of March 2014. The landlords are at liberty to apply for any further loss of rent for the period following March 15, 2014.

Although the landlords' application does not seek to retain the tenant's security deposit, using the offsetting provisions of section 72 of the *Act*, I allow the landlords to retain the tenant's security deposit plus applicable interest in partial satisfaction of the monetary award. As the landlords were successful in this application, I find that the landlords are entitled to recover the \$50.00 filing fee paid for this application from the tenant.

Conclusion

The landlords are provided with a formal copy of an Order of Possession effective by 1:00 p.m. on March 15, 2014. 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 allows the landlords to obtain unpaid rent owing until March 15, 2014 and the filing fee, and to retain the tenant's security deposit:

Item	Amount
Unpaid December 2013 Rent	\$700.00
Unpaid January 2014 Rent	700.00
Unpaid February 2014 Rent	700.00
Unpaid Rent Owing from March 1-15, 2014	350.00
Less Security Deposit (\$350.00 + \$12.40 = \$362.40)	-362.40
Recovery of Filing Fee for this Application	50.00
Total Monetary Order	\$2,137.60

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: March 05, 2014

Residential Tenancy Branch

