



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WALL FINANCIAL CORPORATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: MNR OPR FF

Introduction:

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for orders as follows:

- a) A monetary order pursuant to Section 67;
- b) An Order of Possession pursuant to Sections 46, and 55; and
- d) An order to recover the filing fee pursuant to Section 72.

SERVICE:

Both parties attended and agreed that the Notice to end Tenancy dated March 2, 2015 was served by posting it on the tenant's door and the Application for Dispute Resolution by registered mail to both tenants. I find that the tenant was properly served with the documents according to sections 88 and 89 of the Act.

Preliminary Issue:

The landlord noted there were two tenants on the Notices to End Tenancy and the Application, the second tenant being on a separate page. The tenant agreed she had received a copy of the Application and there was a third page with the name of the second tenant. I found that there was an amendment to the Application with the second tenant's name. The Application was amended as requested.

Issue(s) to be Decided:

The tenant was issued a Notice to End Tenancy dated March 2, 2015 for unpaid rent. Is the landlord now entitled to an Order of Possession and to a Monetary Order for rental arrears and filing fee?

Background and Evidence:

Both parties attended and agreed that rent for March 2015 was not paid in full until March 25, 2015. They agreed that there is rent owing of \$500, including the late fee of \$20 for May 2015. The landlord noted that receipt for each payment of arrears since March 2, 2015 was given "for use and occupancy only". The tenancy commenced on

September 1, 2014 on a fixed term lease to February 28, 2014 and continues month to month. Rent is \$840 a month and a security deposit of \$420 was paid; the landlord does not request the security deposit be applied to amounts outstanding.

The landlord requests an Order of Possession effective two days from service which she said will not be enforced provided they receive the cheque from the Ministry by May 8, 2015 as promised. The parties said there had been a problem with the receipt of the cheque for the second tenant but it was being corrected. The landlord said the tenant had already paid the filing fee for this Application. In evidence is the Notice to End Tenancy, the lease agreement, the rent ledger and proof of service. On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis

Order of Possession

I find that the landlord is entitled to an Order of Possession. There is outstanding rent. The Tenant has 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 has been deemed to have accepted the end of the tenancy on the date set out in the Notice. An Order of Possession is issued effective two days from service. I note the landlord has agreed not to enforce this Order provided the arrears are paid through a cheque from the Ministry by May 8, 2015.

Monetary Order

I find that there are rental arrears in the amount of \$500 representing rental arrears and late fee for May 2015. I find the landlord does not wish to use the security deposit to offset the amount owing but will hold it in trust.

Conclusion:

I find the landlord is entitled to an Order of Possession effective two days from service and a monetary order for \$500. I find the tenant has already reimbursed the landlord for filing fees paid for this application so none are awarded.

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 05, 2015

Now that you have your decision...

All decisions are binding and both landlord and tenant are required to comply.

The RTB website (www.gov.bc.ca/landlordtenant) has information about:

- How and when to enforce an order of possession:
Visit: www.gov.bc.ca/landlordtenant/orders
- How and when to enforce a monetary order:
Visit: www.gov.bc.ca/landlordtenant/orders
- How and when to have a decision or order corrected:
Visit: www.gov.bc.ca/landlordtenant/review to learn about the correction process
- How and when to have a decision or order clarified:
Visit: www.gov.bc.ca/landlordtenant/review to learn about the clarification process
- How and when to apply for the review of a decision:
Visit: www.gov.bc.ca/landlordtenant/review to learn about the review process

Please Note: Legislated deadlines apply

To personally speak with Residential Tenancy Branch (RTB) staff or listen to our 24 Hour Recorded Information Line, please call:

- Toll-free: 1-800-665-8779
- Lower Mainland: 604-660-1020
- Victoria: 250-387-1602

Contact any Service BC Centre or visit the RTB office nearest you. For current information on locations and office hours, visit the RTB web site at www.gov.bc.ca/landlordtenant