



Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF MNR OPR

Introduction

Pursuant to section 58 of the *Residential Tenancy Act*. (the *Act*), I was designated to hear this matter. This hearing dealt with the landlord's application for:

- an Order of Possession pursuant to section 55 of the *Act* for unpaid rent or utilities;
- a Monetary Order pursuant to section 67 of the *Act* for unpaid rent and utilities under the *Act*; and
- recovery of the filing fee from the tenant pursuant to section 72 of the *Act*.

While the landlord, represented by housing manager, BR, attended the hearing by way of a conference call, the tenant did not. The landlord was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord gave sworn testimony that a 10 Day Notice to End Tenancy for Unpaid Rent and Utilities ("10 Day Notice") was sent by regular mail to the tenant on December 8, 2016. I find that in accordance with sections 88 and 90 of the *Act* the 10 Day Notice was served to the tenant on December 13, 2016.

The landlord testified that the tenant was served with the Landlord's Application for Dispute Resolution hearing package ("dispute resolution hearing package"), evidentiary package and monetary order by Registered Mail on December 28, 2016, and again in person on January 6, 2017. In accordance with sections 88, 89 and 90 of the *Act*, I find that the tenant was served with the landlord's dispute resolution hearing package and monetary order on January 2, 2017.

The landlord stated that she wished to amend the monetary order from \$2,547.00 to \$2,201.00 in reflection of a payment made by the tenant on January 10, 2017 for \$346.00. Pursuant to section 64(3)(c), I amend the landlord's monetary order to reflect the new amount of outstanding rent of \$2,201.00.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a Monetary Order for unpaid rent?

Is the landlord entitled to recover the filing fee from the tenant?

Background and Evidence

The landlord gave evidence that the tenancy agreement in question began on August 24, 2004. This was a month to month tenancy, and rent was set at \$511.00 per month. No security deposit was collected at the outset of the tenancy.

The landlord has applied for an Order of Possession and a Monetary Order for partial payment of rent for the months of August, and September 2016 and complete unpaid rent for October, November, December 2016, and January 2017. The landlord is seeking a Money Order of \$2,201.00 to recover monies owed from non-payment of rent for these months.

Analysis – Order of Possession

The tenant failed to pay the unpaid rent within five days of receiving the 10 Day Notice to End Tenancy. 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 December 23, 2016. 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.

Analysis – Monetary Order

I accept this uncontested evidence offered by the landlord. The landlord has applied for a monetary order in the amount of \$2,201.00 for unpaid rent:

Item	Amount
Partial rent for August 2016	\$124.00
Partial rent for September 2016	379.00
Unpaid rent for October 2016	511.00
Unpaid rent for November 2016	511.00
Unpaid rent for December 2016	511.00
Unpaid rent for January 2017	511.00
Less amount paid on January 10, 2017	(-346.00)
Total =	\$2,201.00

As the landlord was successful in her application, she may, pursuant to section 72 of the *Act*, recover the \$100.00 filing fee from the tenant.

Conclusion

I am granting the landlord an Order of Possession to be effective two days after notice is served to 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 am making a Monetary Order of \$2,301.00 in favour of the landlord as follows:

Item	Amount
Partial rent for August 2016	\$124.00
Partial rent for September 2016	379.00
Unpaid rent for October 2016	511.00
Unpaid rent for November 2016	511.00
Unpaid rent for December 2016	511.00
Unpaid rent for January 2017	511.00
Less amount paid on January 10, 2017	(-346.00)
Recovery of Filing Fee	100.00
Total =	\$2,301.00

The landlord is provided with formal Orders in the above terms. Should the tenant fail to comply with these Orders, these Orders may be filed and enforced as Orders of the Provincial Court of British Columbia.

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: January 25, 2017

Residential Tenancy Branch

