



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CROSSROADS ENTERPRISES LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR MNR MNSD FF

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 for money owed for damage or loss under the *Act*;
- an application to keep all or part of the damage deposit pursuant to section 38 of the *Act*; and
- recovery of the filing fee from the tenant, pursuant to section 72 of the *Act*.

While the landlord attended the hearing by way of 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 ("10 Day Notice") was posted on the tenant's front door on February 2, 2017. I find that in accordance with sections 88 and 90 of the *Act* the 10 Day Notice was deemed served to the tenant on February 5, 2017.

The landlord testified that the tenant was sent the Landlord's Application for Dispute Resolution hearing package ("dispute resolution hearing package") by way of Registered Mail on February 18, 2017. The Canada Post tracking number was provided for the hearing. In accordance with section 89 and 90 of the *Act*, I find that the tenant was served with the landlord's dispute resolution hearing package on February 23, 2017.

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?

Can the landlord apply the security deposit against any Monetary Order issued?

Is the landlord entitled to recovery of the filing fee from the tenant?

Background and Evidence

The landlord provided the residential tenancy agreement as part of her evidentiary package, and gave testimony that the tenancy agreement in question began on April 1, 2014. This was a month to month tenancy, rent was set at \$960.00 per month and a security deposit of \$475.00 continues to be held by the landlord.

The landlord has applied for an Order of Possession and a Monetary Order for non-payment of rent for the months of November and December 2016 and January, February and March 2017. The landlord explained that the tenant has only partially paid for rent for November 2016 and that rent for the remainder of the months remains unpaid. The landlord is seeking a Money Order of \$4,605.00 to recover monies owed from non-payment of rent and parking for the following months:

Item	Amount
Partial Rent November 2016	\$765.00
Unpaid Rent December 2016	960.00
Unpaid Rent January 2017	960.00
Unpaid Rent February 2017	960.00
Unpaid Rent March 2017	960.00
Total =	\$4,605.00

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 February 14, 2017. 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.

Analysis – Monetary Order

The landlord provided testimony and written evidence was submitted with the hearing package demonstrating that rent only partial rent has been for November 2016, and remains unpaid in its entirety for December 2016, as well as January, February and March 2017. Pursuant to section 67 of the *Act* and based on the landlord's uncontested evidence, I find that the landlord is entitled to a Monetary Order of \$4,605.00 for unpaid rent.

The landlord has applied to retain the security deposit for this tenancy, using the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain the tenant's \$475.00 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 her application, he can, pursuant to section 72 of the *Act*, recover the cost of 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. If the tenant does not vacate the rental unit within the two days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

I am making a Monetary Order of \$4,230.00 in favour of the landlord as follows:

Item	Amount
Partial Rent November 2016	\$765.00
Unpaid Rent December 2016	960.00
Unpaid Rent January 2017	960.00
Unpaid Rent February 2017	960.00
Unpaid Rent March 2017	960.00
Less Security Deposit	(-475.00)
Return of Filing Fee	100.00

Total Monetary Award	\$4,230.00
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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: March 15, 2017

Residential Tenancy Branch