



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OPR, MNR

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; and
- 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.

The landlord applied through the Direct Request Process whereby and Adjudicator deemed it appropriate that the matter be dealt with by way of participatory hearing. Both parties participated in the hearing. Both parties were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

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?

Background and Evidence

The tenancy began on or about September 1, 2016. Rent in the amount of \$1500.00 is payable in advance on the first day of each month. At the outset of the tenancy the tenant paid a \$725.00 security deposit. The tenant failed to pay rent in the month(s) of January and on January 5, 2017 the landlord served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month(s) of February, March and April. The landlord advised that as of today's hearing the amount of unpaid rent is \$6000.00.

The tenant gave the following testimony. The tenant does not dispute the landlord testimony or claim. The tenant testified that due to illness and lack of work she was unable to pay.

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Analysis

The tenant failed to pay their rent in full within five days of being served the 10 Day Notice. The tenant has not made application pursuant to section 46(4) of the *Act* within five days of having

received the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenants' failure to take either of these actions within five days led to the end of their tenancy.

I find that the landlord is entitled to a 2 day Order of Possession. The landlord is granted an Order of Possession pursuant to Section 55 of the *Act*, which must be served on the tenant(s). If the tenants do 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 provided by the landlord, I am satisfied that the tenant continues to owe the landlord unpaid rent. Although the landlord has not applied to retain the security deposit, using the offsetting provision under Section 72 of the *Act*, I hereby apply the security deposit against the amount of unpaid rent. I issue a monetary award in the landlord's favour in the amount of \$5275.00

Conclusion

Item	Amount
Unpaid Rent January - April	\$6000.00
Less Deposits	-725.00
Total Monetary Order	\$5275.00

The landlord is granted an order of possession and a monetary order for \$5275.00. The landlord may retain the security deposit.

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: April 06, 2017

Residential Tenancy Branch