



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPC, MNR, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent.

It should be noted that English is not the Landlord's first language and as a result the participants in the conference call had some difficulties communicating.

The Landlord said he served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on December 14, 2010. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

The Landlord said the Tenant moved out on December 18, 2010, therefore he has possession of the rental unit and as a result he is withdrawing the application for an Order of Possession on the application.

Issues(s) to be Decided

1. Are there rent arrears and if so, how much?
2. Is the Landlord entitled to compensation for unpaid rent and if so how much?

Background and Evidence

This tenancy started on March 25, 2010 as a month to month tenancy. Rent is \$800.00 per month payable in advance of the 1st day of each month. A security deposit of \$400.00 was paid on March 25, 2010. The Landlord said the Tenant moved out December 18, 2010.

The Landlord said that the Tenant did not pay \$800.00 of rent for November, 2010 and \$800.00 of rent for December, 2010, when it was due and as a result, on December 14, 2010 he personally delivered a 1 Month Notice to End Tenancy for Cause dated December 14, 2010 with an effective date of January 14, 2011.

The Landlord continued to say that he had a number of other claims including costs to change the locks on the rental unit, cleaning the rental unit and doing some repairs, but

he said he did not include them on the application and he has not provided any evidence of the costs to do these items for this hearing.

The Landlord concluded by saying that he also has applied to recover the filing fee of \$50.00 from the Tenant for this proceeding.

Analysis

Section 26 (1) says a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

I find that the Tenant has not paid the overdue rent and has not applied for dispute resolution and does not have the right to withhold part or all of the unpaid rent. Consequently, I find pursuant to s. 67 of the Act that the Landlord is entitled to a Monetary Order. The Landlord is entitled to recover unpaid rent for November, 2010 of \$800.00 and the unpaid rent for December, 2010 in the amount of \$800.00. I find the total amount of unpaid rent the Landlord is entitled to be \$1,600.00.

As the Landlord has been successful in this matter, he is also entitled to recover from the Tenant the \$50.00 filing fee for this proceeding. I order the Landlord pursuant to s. 38(4) and s. 72 of the Act to keep the Tenant's security deposit plus accrued interest in partial payment of the rent arrears. The Landlord will receive a monetary order for the balance owing as following:

	Rent arrears:	\$1,600.00	
	Recover filing fee	\$ 50.00	
	Subtotal:		\$1,650.00
Less:	Security Deposit	\$ 400.00	
	Subtotal:		\$ 400.00
	Balance Owing		\$1,250.00



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Conclusion

A Monetary Order in the amount of \$1,250.00 has been issued to the Landlord. A copy of the Orders must be served on the Tenant: the Monetary Order may be enforced in the Provincial (Small Claims) 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 11, 2011.

Residential Tenancy Branch