



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, MNR, MNDC, FF

Introduction

This hearing was convened in response to an application by the landlord pursuant to the *Residential Tenancy Act* (the Act) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent / loss of revenue - Section 67;
3. An Order to recover the filing fee for this application - Section 72.

Both parties attended the hearing and were given full opportunity to present all relevant evidence and testimony in respect to their claims and to make prior submission to the hearing and fully participate in the conference call hearing. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenant still resides in the rental unit. Rent in the amount of \$1033 is payable in advance on the first day of each month. The tenant failed to pay rent in the month of September 2011 and on September 02, 2011 the landlord served the tenant with a notice to end tenancy for non-payment of rent. The tenant further failed to pay rent in the month of October 2011, but has since paid a portion of the total arrears with only \$503 of arrears remaining as of this hearing. The quantum of the landlord's monetary claim is for the arrears of \$503. The tenant agrees with the landlord's testimony in respect to the rent and the arrears.

At the hearing the parties discussed their dispute and agreed to settle the issues in dispute to their full satisfaction and that I record their settlement as follows:

- The landlord and tenant agree that the landlord will accept all rent arrears totalling \$503 **by close of business hours October 28, 2011**. The landlord will accept the arrears for use and occupancy only, until such time as the tenant pays the rent payable for November 2011, on the date on which the rent is due. If the tenant pays the rent payable for November 2011 in accordance with the tenancy agreement, the tenancy will be re-instated and the tenancy will continue. In the contrary, the landlord can serve the Order of Possession, and the tenancy will end.
- The tenant agrees to satisfy the landlord claim for the filing fee for this application.
- The landlord and tenant agree that the landlord will receive a **Monetary Order for the current arrears of \$503 plus the filing fee of \$50**, and an **Order of Possession**. The parties agree they understand that once the tenant fulfills their terms of this agreement, both Orders given to the landlord will become **null and have no effect**, with the tenancy continuing.

Analysis

Based on the testimony of the parties and their agreement, I find that the tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The tenant has not paid all the outstanding rent and has not applied for Dispute Resolution to dispute the notice. Based on the above facts and the terms of the parties' agreement, I find that the landlord is entitled to an **Order of Possession**, which is only restricted by the terms of the agreement as created by the parties and recorded as above.

I also find that the landlord has established a monetary claim for **\$503** in unpaid rent. The landlord is also awarded recovery of the \$50 filing fee, for a total entitlement of **\$553**. Any claim for loss of revenue is dismissed with leave to reapply, if necessary.

Conclusion

I grant an Order of Possession to the landlord effective 2 days from the day it is served. The tenant must be served with this **Order of Possession**. If the landlord serves this Order and the tenant fails to comply with the Order, the Order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I grant the landlord a Monetary Order under Section 67 of the Act for the amount of **\$553**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

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: October 24, 2011

Residential Tenancy Branch