

## **Decision**

**Dispute Codes:** OPR, MNR, MND, MNDC, MNSD, FF

### **Introduction**

This hearing was convened in response to an application by the landlords for an order of possession / a monetary order as compensation for unpaid rent or utilities / compensation for damage to the unit, site or property / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of the security deposit / and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

### **Issues to be decided**

- Whether the landlords are entitled to any or all of the above under the Act, Regulation or tenancy agreement

### **Background and Evidence**

Pursuant to a written tenancy agreement, the month-to-month tenancy began on June 1, 2011. Monthly rent of \$1,300.00 is payable in advance on the first day of each month, and a security deposit of \$650.00 was collected.

Arising from rent which was unpaid when due on November 1, 2011, the landlords issued a 10 day notice to end tenancy for unpaid rent dated November 2, 2011. The notice was served by way of posting on the tenant's door on that same date. A copy of the notice was submitted into evidence. Subsequently, the tenant made no further payment toward rent, and while she is presently living elsewhere on a temporary basis, most of her possessions remain in the unit.

### **Analysis**

Based on the documentary evidence and testimony of the parties, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated November 2, 2011. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply to dispute the notice. The tenant is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. Accordingly, I find that the landlords are entitled to an order of possession.

As for the monetary order, I find that the landlords have established a claim of \$1,350.00. This is comprised of \$1,300.00 in unpaid rent for November 2011, in addition to the \$50.00 filing fee. I order that the landlords retain the security deposit of \$650.00, and I grant the landlords a monetary order under section 67 of the Act for the balance owed of \$700.00 (\$1,350.00 - \$650.00).

I find the aspect of the landlords' claim for a monetary order as compensation for unpaid rent / loss of rental income for December 2011 to be premature. Accordingly, it is hereby dismissed with leave to reapply.

Similarly, I find the aspect of the landlords' claim for a monetary order as compensation for damage to the unit, site or property to be premature. In the result, it is also hereby dismissed with leave to reapply.

### **Conclusion**

I hereby issue an order of possession in favour of the landlords effective not later than two (2) days after service on the tenant. This order must be served on the tenant. Should the tenant fail 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.

Pursuant to section 67 of the Act, I hereby issue a monetary order in favour of the landlords in the amount of \$700.00. This order may be served on the tenant, 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*.

DATE: November 30, 2011

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Residential Tenancy Branch