



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, 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 - Section 67;
3. A Monetary Order for damage to the unit – Section 67;
4. A Monetary Order for compensation for loss – Section 67;
5. An Order to retain the security deposit - Section 38; and
6. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by personal service on January 13, 2011 in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing.

The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

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 tenancy began on October 1, 2011. Rent in the amount of \$900.00 is payable in advance on the first day of each month until January 2012 and rent then has been reduced to \$750.00. At the outset of the tenancy, the Landlord collected a security deposit from the Tenant in the amount of \$450.00. The Tenant failed to pay rent for December 2011 and on December 2, 2011 the Landlord personally served the Tenant with a notice to end tenancy for non-payment of rent. The Tenant has also failed to pay the rent for January 2012. The Tenant has not filed an Application for Dispute Resolution and has not moved out of the unit. The Landlord claims \$900.00 for unpaid December 2011 rent, \$750.00 for unpaid January 2012 rent and, in the expectation of loss of rental income, claims the amount of \$750.00 for February 2012 rent. The Landlord also claims the amount of \$350.00 for a broken window in the unit and states that the Tenant broke this window. No invoice or photo evidence has been supplied for this claimed amount and no move-in inspection was completed. The Landlord states that the unit has other damages as well.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Based on the Landlord's evidence 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 filed an application to dispute the notice and has not paid the outstanding rent. Given these facts, I find that the Landlord is entitled to an **Order of Possession**. I also find that the Landlord has established a monetary claim for **\$2,025.00** in unpaid rent for December 2011 and January 2012, including a half months rent for February 2012. Given the lack of invoice, condition inspection report or photos, I find that the Landlord

has not substantiated the claim for the broken window and I dismiss this part of the claim.

The Landlord is entitled to recovery of the **\$50.00** filing fee for a total monetary amount of **\$2,075.00**. Setting the security deposit plus interest in the amount of \$450.00 off the entitlement leaves the amount of **\$1,625.00** payable by the Tenant to the Landlord.

With the exception of the claimed damage to the window that has been dismissed in this Decision, the Landlord is at liberty to make an application for damages caused by the Tenant and not remedied by the Tenant prior to moving out of the unit, after the Tenant has moved out of the unit.

Conclusion

I grant an Order of Possession to the Landlord. The Tenant must be served with this **Order of Possession**. 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.

I order that the Landlord retain the **deposit** and interest of \$450.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$1,625.00**. 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: January 26, 2012.

Residential Tenancy Branch