Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes   OPR, MNR, MNSD, MNDC, FF

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;
- a monetary order for unpaid rent and money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 3:12 p.m. in order to enable her to connect with this teleconference hearing scheduled for 3:00 p.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord testified that he posted a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenant's door on May 7, 2012. The landlord testified that a copy of the landlord's dispute resolution hearing package was sent to the tenant by registered mail on June 8, 2012. The landlord provided the Canada Post Tracking Number to confirm this mailing. I am satisfied that the landlord served the above documents to the tenant in accordance with the *Act*.

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 and losses arising out of this tenancy? Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

This tenancy commenced on November 1, 2006 as a one-year fixed term tenancy. After the expiration of the initial term, the tenancy converted to a periodic tenancy. Monthly rent is currently set at $788.45, payable in advance on the first of each month. The landlord continues to hold the tenant's $335.00 security deposit paid on or about October 14, 2006.

The landlord's application for a monetary award of $1,626.90 included unpaid rent of $788.45 for each of May and June 2012, plus two $25.00 late fees applied by the landlord in accordance with the residential tenancy agreement. The landlord testified that no payments have been received for this tenancy since the 10 Day Notice was issued.

Analysis

The tenant failed to pay the May 2012 rent in full within five days of receiving the 10 Day Notice. The tenant has not made application pursuant to section 46(4) of the *Act* within five days of receiving the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenant's failure to take either of these actions within five days led to the end of this tenancy on the corrected effective date of the notice. In this case, this required the tenant and everyone on the premises to vacate the premises by May 20, 2012. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenant. If the tenant does 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 find that the landlord is entitled to a monetary award of $1,626.90 for unpaid rent and late fees arising from this tenancy. As the landlord has been successful in this application, I allow the landlord to recover the $50.00 filing fee from the tenant. I allow the landlord to retain the tenant's security deposit plus applicable interest in partial satisfaction of this monetary award.

Conclusion

I provide the landlord with a formal copy of an Order of Possession to take effect within 2 days of the landlord's service of this notice to the tenant(s). Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary Order in the landlord's favour under the following terms which allows the landlord to recover unpaid rent and losses, to recover the filing fee, and to retain the tenant's security deposit:

Item	Amount

Unpaid May 2012 Rent	$788.45
May Late Fee	25.00
Unpaid June 2012 Rent	788.45
June Late Fee	25.00
Less Security Deposit plus Interest ($335.00 + $10.51 = $345.51)	-345.51
Recovery of Filing Fee for this application	50.00
Total Monetary Order	**$1,331.39**

The landlord is provided with these Orders in the above terms and the tenant must be served with a copy of these Orders as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: June 27, 2012

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Residential Tenancy Branch