



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MND, 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; and
4. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each 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 following are agreed facts: The tenancy began on July 15, 2012. Rent of \$1,350.00 is payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected a security deposit from the Tenant of \$675.00 and a pet deposit of \$675.00. The Tenant owed \$2,700.00 for rental arrears prior to September 1, 2012 and on August 28, 2012 the Landlord personally served the Tenant with a 10 day notice to end tenancy for non-payment of rent (the “Notice”). The Tenant further failed to pay September, October and November 2012 rent. The Tenant paid \$3,000.00 towards the arrears by October 3, 2012 leaving \$3,750.00 in arrears remaining. The

Tenant has not filed an Application for Dispute Resolution to dispute the Notice and has not moved out of the unit.

The Landlord states that there is current damage to the unit. The Landlord claims \$3,750.00 for rental arrears.

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 agreed facts 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 **\$3,750.00** in unpaid rent. The Landlord is also entitled to recovery of the **\$50.00** filing fee for a total monetary amount of **\$3,800.00**. Setting the security and pet deposit of **\$1,350.00** plus zero interest off the entitlement leaves **\$2,450.00** payable by the Tenant to the Landlord.

As the Landlord's application in relation to damage to damage to the unit is premature, I dismiss this claim with leave to reapply.

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 \$1,350.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$2,450.00**. 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: November 29, 2012.

Residential Tenancy Branch