

DECISION

Dispute Codes: OPR, MNR, FF

Introduction

This is the Landlord's application for an Order of Possession; a Monetary Order for unpaid rent; and to recover the cost of the filing fee from the Tenants.

The Landlord's agent gave affirmed testimony at the Hearing.

The Landlord's agent testified that he mailed the Notice of Hearing documents and copies of his documentary evidence to each of the Tenants, by registered mail, at the rental unit on February 22, 2011. The Landlord's agent testified that a search of the Canada Post tracking systems discloses that both packages were delivered on February 23, 2011. The Landlord's agent provided the tracking numbers of the registered mail documents.

Based on the testimony of the Landlord's agent's, I am satisfied that the Tenants were served with the Notice of Hearing Package and evidence in accordance with the provisions of Section 89(1)(c) of the Act. In spite of being served with the documents, the Tenants did not sign into the teleconference and the Hearing proceeded in their absence.

Issue(s) to be Decided

- (1) Is the Landlord entitled to an Order of Possession?
- (2) Is the Landlord entitled to a Monetary Order for unpaid rent and loss of rent for the months of February and March, 2011?

Background and Evidence

The Landlord's agent testified that the Notice to End Tenancy for Unpaid Rent was posted to the Tenants' door on February 3, 2011.

The tenancy began on June 1, 2010. A copy of the tenancy agreement was provided in evidence. Monthly rent is \$950.00, due on the first day of each month. The Tenants paid a security deposit in the amount of \$475.00 on May 28, 2010. The Tenants owe partial rent for the month of February, 2011, in the amount of \$750.00. The Tenants made a partial payment towards rent arrears on March 1, 2011, which the Landlord applied towards February's rent arrears. No further rent payments have been made. The Tenants remain in the rental unit.

Analysis

I accept the Landlord's agent's testimony that the Tenants were served with the Notice to End Tenancy in accordance with the provisions of Section 88(g) of the Act. Service in this manner is deemed to be effected 3 days after posting. The Tenants did not pay the rental arrears or dispute the Notice to End Tenancy within 5 days of being served with the Notice to End Tenancy. Pursuant to Section 46(5) of the Act, the Tenants are conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. In this case, the effective end to the tenancy was February 16, 2011, and the Tenants are overholding.

Therefore, the Landlord is entitled to an Order of Possession and I make that order **effective 2 days after service of the Order upon the Tenants.**

Based on the undisputed testimony and documentary evidence of the Landlord's agent, and the absence of any evidence to the contrary from the Tenants, the Landlord has established its claim, as follows:

Unpaid rent for February, 2011	\$750.00
Loss of rent for March, 2011	<u>\$950.00</u>
TOTAL:	\$1,700.00

Pursuant to the provisions of Section 72(2)(b) of the Act, the Landlord may apply the security deposit in partial satisfaction of its monetary award. No interest has accrued on the security deposit.

The Landlord has been successful in its application and is entitled to recover the cost of the filing fee from the Tenants.

I hereby provide the Landlord with a Monetary Order against the Tenants, calculated as follows:

Rent arrears and loss of rent	\$1,700.00
Recovery of filing fee	\$50.00
Less security deposit	<u><\$475.00></u>
TOTAL amount due to Landlord after set off	\$1,275.00
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Conclusion

I hereby provide the Landlord an Order of Possession **effective two days from service of the Order upon the Tenants**. This Order must be served on the Tenants and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I hereby provide the Landlord a Monetary Order in the amount of **\$1,275.00** against the Tenants. This Order must be served on the Tenants and may be filed in the Provincial Court of British Columbia (Small Claims) 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: March 03, 2011.
