

DECISION

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

Introduction

This is the Landlord's application for an Order of Possession; a Monetary Order for unpaid rent and damage to the rental unit; compensation for damage or loss under the Act, regulation or tenancy agreement; to retain the security deposit in partial satisfaction of its monetary claim; and to recover the cost of the filing fee from the Tenants.

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

Preliminary issues

At the outset of the Hearing, the Landlord's agent testified that the Tenants moved out of the rental unit on October 18, 2011, in the evening and returned the keys to the Landlord on that day. Therefore, the Landlord's agent withdrew the Landlord's application for an Order of Possession.

The Landlord's agent testified that repairs are not completed at the rental unit. I advised her that the Landlord's application for a monetary order for damages and compensation for damage or loss was premature. I dismissed this portion of the Landlord's claim **with leave to reapply**.

Service of the Notice of Hearing documents

The Landlord's agent testified that she served the male Tenant with the Notice of Hearing documents by handing the documents to the male Tenant at the rental unit on October 18, 2011, at 1:15 p.m. with a witness present. The Landlord's agent testified that the female Tenant was not home, so she gave the female Tenant's copy of the Notice of Hearing documents to the male Tenant, who said he would pass them along.

Based on the affirmed testimony of the Landlord's agent, I am satisfied that the male Tenant was duly served with the Notice of Hearing documents in accordance with the provisions of Section 89(a) of the Act. The Act requires that **each** respondent named in an application be served with the Notice of Hearing documents and I find that the Landlord did not serve the female Tenant in accordance with the provisions of Section 89 of the Act. Tenants are jointly and severally responsible for debts and damages incurred in a tenancy and therefore the Hearing proceeded against the male Tenant only. The Landlord's claim against the female Tenant is dismissed. Despite being

served with the Notice of Hearing documents, the male Tenant did not sign into the teleconference and the Hearing proceeded in his absence.

Issues to be Decided

- Is the Landlord entitled to a Monetary Order for unpaid rent for the month of October, 2011?

Background and Evidence

The Landlord's agent gave the following testimony and evidence:

A copy of the tenancy agreement was provided in evidence. The tenancy commenced on July 1, 2008. Monthly rent at the beginning of the tenancy was \$740.00, due on the first day of each month. The monthly rent at the end of the tenancy was \$809.00. The Tenants paid a security deposit in the amount of \$370.00 on June 16, 2008 and a pet damage deposit in the amount of \$370.00 on July 21, 2008.

On October 2, 2011, the Landlord's agent served the Tenants with a 10 Day Notice to End Tenancy for Unpaid Rent, by posting the Notice on the Tenants' door at the rental unit. The Tenants have not paid any rent for the month of October, 2011.

Analysis

I accept that the Landlord's agent served the Tenants with the Notice to End Tenancy by posting the Notice on the Tenants' door on October 2, 2011. Based on the undisputed testimony of the Landlord's agent, the Landlord has established a monetary award for unpaid rent in the amount of \$809.00.

Pursuant to Section 72(2)(b) of the Act, the Landlord may apply the security deposit and pet damage deposit, together with accrued interest, towards partial satisfaction of the Landlord's monetary award. Interest in the amount of \$5.51 has accrued on the deposits.

The Landlord's application had merit and I find that the Landlord is entitled to recover the cost of the \$50.00 filing fee from the male Tenant.

The Landlord has established a monetary claim as follows:

Unpaid rent for October, 2011	\$809.00
Subtotal	\$859.00
Less security deposit, pet damage deposit and accrued interest	- \$745.51
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$113.49

Conclusion

The Landlord's application for an Order of Possession was **withdrawn**.

The Landlord's application against both Tenants for a monetary order for damages to the rental unit and compensation for damage or loss under the Act, regulation or tenancy agreement is **dismissed with leave to reapply**.

The Landlord's application against the female Tenant for a monetary order for unpaid rent for the month of October, 2011, is **dismissed without leave to reapply**.

I hereby grant the Landlord a Monetary Order in the amount of **\$113.49** for service upon the male Tenant. This Order 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: November 09, 2011.

Residential Tenancy Branch