



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR; MNR; MNSD; FF

Introduction

This is the Landlord's application for an Order of Possession; a Monetary Order for unpaid rent; to retain the security deposit in partial satisfaction of her monetary award; and to recover the cost of the filing fee from the Tenant.

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

The Landlord's agent testified that the Notice of Hearing documents were mailed to the Tenants, via registered mail, to the rental unit on September 15, 2012. The Landlord's agent provided the tracking numbers for the registered documents.

Based on the affirmed testimony of the Landlord's agent, I am satisfied that the Tenant was duly served with the Notice of Hearing documents pursuant to the provisions of Section 89(1)(c) of the Act. Service in this manner is deemed to be effected 5 days after mailing the documents. Despite being served with the Notice of Hearing documents, the Tenant did not sign into the teleconference and the Hearing proceeded in her absence.

Issues to be Decided

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to a Monetary Order, and if so, in what amount?

Background and Evidence

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

Monthly rent is \$1,800.00, due the 19th day of each month. The Tenant paid a security deposit in the amount of \$900.00 on January 10, 2007.

On August 22, 2012, the Landlord's agent served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent, by posting the Notice on the Tenant's door at the rental unit.

The Landlord's agent testified that the Tenant has paid some of the money due to the Landlord, but the Landlord did not reinstate the tenancy, and provided the Tenant with

receipts for “use and occupancy only”. The Landlord’s agent requested a monetary award in the amount of \$9,000.00 for unpaid rent, calculated follows:

DATE	RENT DUE	RENT PAID	BALANCE OWING
May 19, 2012	\$1,800.00		\$3,600.00
June 19, 2012	\$1,800.00		\$5,400.00
July 19, 2012	\$1,800.00		\$7,200.00
August 19, 2012	\$1,800.00		\$9,000.00
September 14, 2012	\$1,800.00	\$700.00	\$10,100.00
September 17, 2012		\$500.00	\$9,600.00
September 18, 2012		\$300.00	\$9,300.00
September 19, 2012		\$300.00	\$9,000.00

Analysis

I accept that the Landlord served the Tenant with the Notice to End Tenancy by posting the Notice on the Tenant’s door on August 22, 2012. Pursuant to the provisions of Section 90 of the Act, service in this manner is deemed to be effected three days after posting the documents. The Tenant did not pay all of the arrears, or file for dispute resolution, within 5 days of receiving the documents. Therefore, pursuant to Section 46(5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy ended on September 4, 2012. I find that the Landlord is entitled to an Order of Possession and I make that Order, effective two days after service of the Order upon the Tenant.

I find that the Landlord’s agent has established a monetary claim for unpaid rent and loss of revenue to and including October 19, 2012, in the total amount of \$9,000.00.

Pursuant to Section 72(2)(b) of the Act, the Landlord may apply the security deposit and accrued interest towards partial satisfaction of the Landlord’s monetary award. Interest has accrued on the security deposit in the amount of \$26.87.

The Landlord has been successful in her application and is entitled to recover the cost of the \$100.00 filing fee from the Tenant.

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

Unpaid rent and loss of revenue	\$9,000.00
Subtotal	\$9,100.00
Less security deposit and accrued interest	- \$926.87
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$8,173.13

Conclusion

I hereby provide the Landlord an Order of Possession effective **2 days after service of the Order upon the Tenant**. This Order 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 **\$8,173.13** for service upon the 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: October 17, 2012.

Residential Tenancy Branch