

Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

Decision

Dispute Codes:

OPR, MNR, FF

Introduction

I have been delegated the authority under Section 9.1 of the *Residential Tenancy Act* (the “Act”) to hear this matter and decide the issues.

The Landlord gave affirmed evidence and this matter proceeded on its merits.

Issue(s) to be Decided

This is the Landlord’s application for an Order of Possession and a Monetary Order for unpaid rent and recover the filing fee from the Tenant.

- (1) Is the Landlord entitled to an Order of Possession?
- (2) Is the Landlord entitled to a monetary order?

Background and Evidence

Landlords’ evidence

The Landlord testified that she served the Tenant with the Notice to End Tenancy by posting the Notice to the door of the Tenant’s residence at 11:30 a.m. on February 2, 2009.

The Landlord testified that she personally served the Tenant with a copy of the Application for Dispute Resolution and hearing package on February 17, 2009 at the Tenant’s residence.

The Landlord testified that:

- The monthly rent is \$575.00.
- The Tenant is in arrears of rent for January, 2009, in the amount of \$400.00.
- The Tenant is in arrears of rent for February, 2009, in the amount of \$575.00.
- The Tenant is still occupying the rental unit and has not paid any rent for the month of March, 2009.
- The Tenant paid a security deposit in the amount of \$287.50 on August 10, 2008.

The Landlord asked for an order of possession, a monetary order to include loss of rent for the month of March, 2008, and to apply the security deposit towards the amount owing to the Landlord.

Analysis

I accept the Landlord's testimony that the Tenant was properly served with the Notice to End Tenancy. Service by way of posting a document on a tenant's door is deemed to be served three days after posting the document. In this case, service was effected on February 5, 2009, and the effective end to the tenancy is therefore February 15, 2009.

The Tenant 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 and is therefore pursuant to Section 46(5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy ended effective February 15, 2009. The Landlord is entitled to an Order of Possession and I make that order.

I accept the Landlord's testimony that she personally served the Tenant with the Notice of Hearing Package and Application for Dispute Resolution on February 17, 2009. In spite of being served with the documents, the Tenant did not appear at today's Hearing and the Hearing proceeded in her absence.

The Landlord has established her monetary claim for rent arrears for January and February, 2009 and loss of rent for March, 2009. Pursuant to Section 72 of the Act, the Landlord may apply the security deposit, together with any accrued interest thereon, towards her monetary order.

The Landlord has been successful in her application and is entitled to recover the filing fee in the amount of \$50.00 from the Tenant.

I therefore make a monetary order in favour of the Landlord in the amount of \$,
calculated as follows:

Unpaid rent for January and February, 2009:	\$975.00
Loss of Rent for March, 2009:	\$575.00
Recovery of filing fee	\$50.00
Less security deposit and interest of \$1.70	<u><\$289.20></u>
TOTAL	\$1,320.80
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Conclusion

I grant the Landlord a monetary order for \$1,320.80 against the Tenant. This order must be served on the Tenant and may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an order of that Court.

Under Section 55 of the Act, and based on the above facts I find that the Landlord is entitled to an Order of Possession and I hereby issue the order effective two days from service of the order. This order must be served on the Tenant and may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

April 3, 2009
