

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 for the month of July and loss of rent for the month of August, 2009; to keep the security deposit; and to recover the cost of the filing fee from the Tenant.

I reviewed the evidence provided prior to the Hearing. The Landlord's agent gave affirmed testimony and the Hearing proceeded on its merits.

Issues to be Decided

- Is the Landlord entitled to an order of possession and monetary order for unpaid rent and loss of rent?
- Is the Landlord entitled to retain the security deposit paid by the Tenant?
- Is the Landlord entitled to recover the cost of the filing fee from the Tenant?

Background and Evidence

On July 2, 2009, the Landlord issued a 10 Day Notice to End Tenancy for unpaid rent with an effective date of July 12, 2009. The Landlord's agent served the Tenant with the Notice to End Tenancy by posting the Notice on the Tenant's door on July 2, 2009. The Landlord mailed the Notice of Hearing documents to the Tenant, via registered mail, to the Tenant's address on July 13, 2009. The Landlord provided a copy of the registered mail receipt and tracking number. The Landlord's agent testified that the documents were returned to the Landlord on August 8, 2009, as they were refused by the recipient.

The Landlord provided a copy of the rental agreement and a Notice of Rent Increase, effective December 1, 2008. Monthly rent was \$912.00. Parking fees were \$20.00 per month, for a total of \$932.00 per month. The Tenant paid a security deposit in the

amount of \$375.00 on July 3, 2000. The Tenant did not pay any of the rent for the months of July and August.

The Landlord's agent testified that it appears the Tenant has recently abandoned the rental unit. However, the Landlord's agent is not certain that the Tenant has moved out and requested an Order of Possession in the event the Tenant returns to the rental property.

The Landlord's agent asked to recover the cost of the filing fee from the Tenant.

Analysis

I accept the Landlord's agent's testimony and evidence with respect to service of the Notice End Tenancy and the Notice of Hearing documents upon the Tenant.

Section 90 of the Act deems service of the Notice to End Tenancy by posting on the Tenant's door to be effected three days after posting the Notice. Therefore, the effective date of the end of tenancy was July 15, 2009. The Tenant did not pay the outstanding rent, or file a dispute, within 5 days of being served. Pursuant to Section 46(5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy ended on July 15, 2009. The Landlord is entitled to an Order of Possession, and I make that Order.

The Notice to End Tenancy and the Application for Dispute Resolution both disclose the amount owing in rent and parking fees to be \$931.00 per month. Based on the undisputed testimony of the Landlord's agent, I find that the Landlord has established a monetary claim for unpaid rent and loss of rent against the Tenant, in the total amount of \$1,862.00. Pursuant to Section 72(2)(b) of the Act, the Landlord may apply the security deposit, together with accrued interest, towards partial satisfaction of its claim.

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

The Landlord has established a monetary order, as follows:

Unpaid rent for the month of July, 2009	\$931.00
Loss of rent for the month of August, 2009	\$931.00
Recovery of the filing fee	\$50.00
Subtotal	\$1,912.00
Less security deposit and accrued interest of \$ 28.94	-\$403.94
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$1,508.06

Conclusion

Pursuant to Section 67 of the Act, I hereby grant the Landlord a Monetary Order against the Tenant in the amount of \$1,508.06. 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.

Pursuant to Section 55 of the Act, I hereby grant the Landlord an Order of Possession effective two days after service upon the Tenant. 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.

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: August 31, 2009.
