



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

OPR, MNR, MNSD, FF

Introduction

This is the Landlord's application for an Order of Possession for unpaid rent; for a Monetary Order for unpaid rent; to apply the security deposit towards partial satisfaction of the Landlord's monetary claim; and to recover the cost of the filing fee from the Tenants.

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

Preliminary Issues

At the onset of the Hearing, the Landlord stated that the Tenants had moved out of the rental unit. Therefore, the Landlord's application for an Order of Possession is dismissed as abandoned.

Issues to be Decided

- Is the Landlord entitled to a monetary order for unpaid rent?
- Is the Landlord entitled to recover the cost of the filing fee from the Tenants?

Background and Evidence

The Landlord testified that he served the Tenants with the Notice to End Tenancy for Unpaid Rent on November 4, 2009, by posting the notice to the Tenants' door at the rental unit. The Landlord provided a Proof of Service document, indicating that the Notice to End Tenancy was posted on the Tenants' door at 6:00 p.m. on November 4, 2009. The Proof of Service document was signed by a witness.



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The Landlord testified that he served the Tenants with the Notice of Hearing documents on November 26, 2008, by registered mail, to the rental unit. The Landlord testified that the Tenants were still living at the rental unit when he mailed the packages. The Landlord provided the tracking numbers for the registered mail packages. The Landlord testified that the documents were returned, unclaimed.

The Landlord testified that the monthly rent was \$900.00 due on the first day of each month. The Landlord provided a copy of the tenancy agreement in evidence, which required the Tenants to pay a security deposit in the amount of \$450.00 by October 1, 2009. The Landlord testified that the Tenants paid only \$391.00 for their security deposit, on October 1, 2009.

The Landlord testified that the Tenants did not return their keys to the rental property and left garbage and other personal items of little value at the rental unit.

The Landlord testified that he was able to re-rent the rental unit on December 15, 2009.

Analysis

I am satisfied that the Landlord mailed the Tenants the Notice of Hearing documents by registered mail. Service in this manner is deemed to be effected 5 days after mailing the documents. Despite being served with the documents, the Tenants did not sign into the conference and the hearing proceeded in their absence.

The Landlord gave testimony to suggest that he had a further claim for damages against the Tenants. He is at liberty to file a further application, should he so desire.

The tenancy agreement indicates that both Tenants signed the agreement on October 5, 2009. I accept the Landlord's undisputed testimony that the Tenants did not pay rent for the month of November, and therefore the Landlord is entitled to a monetary award in the amount of \$900.00.



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Further to the provisions of Section 72 of the Act, the Landlord may apply the security deposit towards partial satisfaction of his monetary award. No interest has accrued on the security deposit.

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

I hereby provide the Landlord with a Monetary Order in the amount of \$559.00, calculated as follows:

Unpaid November rent	\$900.00
Recovery of the filing fee	\$50.00
Less se-off of the security deposit	<u>-\$391.00</u>
Total due to the Landlord after set-off	\$559.00

Conclusion

The Landlord's application for an Order of Possession is dismissed as abandoned.

I grant the Landlord a Monetary Order against the Tenants in the amount of \$559.00. 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: January 18, 2010.
