

DECISION

Dispute Codes

OPR, MNR, MNSD, MNDC, FF

Introduction

This is the Landlord's application for an Order for Possession; a Monetary Order for unpaid rent and loss of 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.

Both parties attended and gave affirmed testimony

Background and Evidence

The Landlord testified that rent is \$900.00 per month, with a monthly charge for internet use of \$20.00. The Tenant paid a security deposit in the amount of \$450.00 on June 1, 2009.

The Notice to End Tenancy for Unpaid Rent was posted on the Tenant's door on March 6, 2010.

The Landlord testified that the Tenant owes the following amount to the Landlord:

Unpaid rent for February, 2010:	\$380.00
Unpaid rent and internet fee for March, 2010	\$920.00
Loss of rent for April, 2010	\$920.00
Loss of rent for May, 2010	<u>\$920.00</u>
TOTAL owing to the Landlord:	\$3,140.00

The Landlord testified that the Tenant paid his rent in cash and that she did not provide the Tenant with receipts.

The Tenant did not file an Application to dispute the Notice to End Tenancy, but disagreed with the amount of rent he owes the Landlord. The Tenant testified that there was no written tenancy agreement between the parties. The Tenant testified that he has not used the internet for months and disputed owing the Landlord internet fees. The Tenant testified that he has paid all of February and March rent, and ½ of April rent. The Tenant stated that he has not paid any rent for the month of May because he is moving out.

Analysis

The Tenant agreed that he received the Notice to End Tenancy on or about March 8, 2010. I accept the Landlord's testimony that the Notice was posted on the Tenant's door on March 6, 2010. Service in this manner is deemed to be effected 3 days after posting the document. Therefore, I find the Notice was served on March 9, 2010, and the effective end of tenancy was March 19, 2010. The Landlord is entitled to an Order of Possession effective 2 days after service of the Order on the Tenant.

Section 26(2) of the Act requires landlords to provide tenants with receipts for rent paid in cash. The Landlord did not comply with Section 26(2) of the Act. This is the Landlord's application, and therefore it is her responsibility to prove her monetary claim. I find that the Landlord has not provided sufficient evidence to prove her monetary claim for loss of rent for the months of February and March and the internet fees. However, the Tenant testified that he paid only half of his April rent, in the amount of \$450.00, and has not paid any rent for the month of May.

This tenancy ended on March 19, 2010. The Tenant remains in the rental unit and therefore, the Landlord is entitled to compensation for loss of rent for the months of April and May, 2010.

I find that the Landlord has established a monetary claim for loss of rent for the month of April in the amount of \$450.00, and loss of rent for the month of May in the amount of \$900.00.

Pursuant to the provisions of Section 72 of the Act, the Landlord may apply the security deposit towards her monetary award. No interest has accrued on the security deposit.

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

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

Loss of rent for April, 2010	\$450.00
Loss of rent for May, 2010	\$900.00
Recovery of filing fee	\$50.00
Less security deposit set-off	<u>-\$450.00</u>
Balance due to the Landlord after set-off	\$950.00

Conclusion

I hereby grant the Landlord an Order of Possession **effective two days after service of the Order on 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.

I hereby grant the Landlord a Monetary Order in the amount of \$950.00 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.

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: May 3, 2010