

Decision

Dispute Codes:

OPR, MNR, FF

Introduction

This matter was convened to the Landlord's application for an Order of Possession for unpaid rent; a Monetary Order for unpaid rent; and to recover the cost of the filing fee from the Tenant.

The Landlord gave affirmed testimony.

Preliminary Matter

The Landlord testified that she mailed the Notice of Hearing documents to the Tenant at the rental unit, on April 9, 2010, by registered mail. The Landlord provided the receipt and tracking numbers for the registered mail documents.

Based on the affirmed testimony of the Landlord, I am satisfied that the Tenant was served with the Notice of Hearing documents in accordance with the provisions of Section 89(1)(c) of the *Residential Tenancy Act* (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 continued in her absence.

Issues to be Decided

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

Background and Evidence

The Landlord gave the following testimony:

- The Landlord issued a Notice to End Tenancy for unpaid rent on March 22, 2010.
- The Landlord provided a Proof of Service document in evidence, which indicates that the Landlord mailed the Notice to End Tenancy to the Tenant at the rental unit, on March 24, 2010, by registered mail. The Proof of Service document also provides the tracking number for the mailed document.
- Monthly rent is \$1,500.00, due on the first day of each month.
- The Tenant is in arrears in the amount of \$700.00 for February, 2010 rent and has not paid any rent for the months of March, April, and May, 2010. The total amount of unpaid rent is \$5,200.00.
- The Tenant paid a security deposit in the amount of \$750.00 on June 16, 2009.
- The Landlord asked to apply the security deposit in partial satisfaction of the Landlords' monetary award.

Analysis

Based on the undisputed testimony of the Landlord, I am satisfied that the Tenant was served with the Notice to End Tenancy issued March 22, 2010, by registered mail. Documents served in this manner are deemed to be served 5 days after mailing (i.e. March 27, 2010). Section 46(4) of the Act provides that the Tenant could pay the outstanding rent, or file an application to cancel the Notice to End Tenancy, within 5 days of receiving the Notice. The Tenant did not apply to cancel the Notice to End Tenancy, or pay the outstanding rent, within 5 days of being served, and therefore are conclusively presumed to have accepted that the Tenancy ended on April 6, 2010. The Landlords are entitled to an Order of Possession and I make that order.

The Landlords are entitled to a monetary award in the amount of \$5,200.00 for unpaid rent. Pursuant to the provisions of Section 72 of the Act, the Landlords may apply the security deposit towards their monetary award. No interest has accrued on the security deposit.

The Landlords have been successful in their application and are entitled to recover the filing fee from the Tenant.

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

Unpaid rent	\$5,200.00
Recovery of filing fee	\$100.00
Less set-off of security deposit	<u>-\$750.00</u>
Total Monetary Order	\$4,550.00

Conclusion

I hereby grant the Landlords a Monetary Order in the amount of \$4,550.00 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.

I hereby grant the Landlord an Order of Possession **effective 2 days after service of the Order 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: May 26, 2010