

Decision

Dispute Codes:

OPR, MNR, MNDC, MNSD, FF

Introduction

This matter was convened to hear the Landlord's application for an Order of Possession for Unpaid Rent; for a monetary order for unpaid rent and loss of rent; to apply the security deposit towards its monetary award; and to recover the cost of the filing fee from the Landlord.

The Landlord's agent gave affirmed testimony.

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's agent gave the following testimony:

- The Tenant was served with the Notice to End Tenancy on April 2, 2010, at 9:10 a.m., by posting the Notice on the Tenant's door. The Landlord provided a Proof of Service Document, signed by a Witness, in evidence.
- The Landlord's agent mailed the Notice of Hearing package to the Tenant, by registered mail, on April 19, 2010, to the rental unit. The Landlord provided a registered mail receipt and tracking number for the documents.
- Monthly rent is \$750.00, due on the first of the month. The Tenant paid a security deposit in the amount of \$375.00 on October 1, 2009.
- The Tenant remains in the rental unit and has not paid any of the outstanding rent for April, 2010. The Landlord has lost rental revenue for the month of May, 2010.

Analysis

Based on the Landlord's agent's affirmed testimony and supporting documentary evidence, I am satisfied that the Tenant was served with the Notice of Hearing Documents by registered mail to the Tenant's residential address. Service in this manner is deemed to be effected 5 days after mailing the document. Despite being served with the Notice of Hearing documents, the Tenant did not sign into the teleconference and the Hearing proceeded in his absence.

Based on the undisputed testimony of the Landlord's agent and the supporting documentary evidence, I am satisfied that the Tenant was served with the Notice to End Tenancy, issued April 2, 2010, by posting the Notice on the door of the Tenant's residence. Service in this manner is deemed to be effective 3 days after posting the Notice. 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 15, 2010. The Landlord is entitled to an Order of Possession and I make that order.

The Landlord is entitled to a monetary award in the amount of \$1,500.00 for unpaid rent for the month of April, 2010 and loss of rent for the month of May, 2010. Pursuant to the provisions of Section 72 of the Act, the Landlord may apply the security deposit towards its monetary award. No interest has accrued on the security deposit.

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

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

Unpaid rent/loss of rent for April and May, 2010	\$1,500.00
Recovery of filing fee	\$50.00
Less set-off of security deposit	<u>\$375.00</u>
Total Monetary Order	\$1,175.00

Conclusion

I hereby grant the Landlord a Monetary Order in the amount of \$1,175.00 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: June 3, 2010