

DECISION

Dispute Codes

OPR, MNR, MNSD, FF

Introduction

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

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

Issues to be Determined:

- Is the Landlord entitled to an Order of Possession pursuant to a 10 day Notice to End Tenancy issued May 6, 2010, for unpaid rent?
- Is the Landlord entitled to a Monetary Order for unpaid rent for the month of May, 2010, and loss of rent for the month of June, 2010?

Background and Evidence

The Landlord's agents gave the following testimony:

The Landlord's agent testified that he was present and witnessed the Landlord serve the Tenant with the 10 day Notice to End Tenancy (the "Notice"), by posting the Notice on the Tenant's door at the rental unit on May 6, 2010.

The Landlord's agents testified that he mailed the Notice of Hearing documents to the Tenant, via registered mail, to the rental unit on May 19, 2010. The Landlord provided a copy of the registered mail receipt and tracking number in evidence.

The Landlord's agent testified that the Tenant remains in the rental unit and has not paid rent for May or June, 2010. Monthly rent is \$600.00, due on the first day of each month. The Tenant paid a security deposit in the amount of \$300.00 in April, 2009.

The Landlord's agent testified that the Tenant ignores all of the Landlord's attempts to discuss the unpaid rent with the Tenant.

Analysis

I accept the Landlord's agent's affirmed testimony and documentary evidence that the Tenant was served with the Notice of Hearing documents by registered mail, which is a method of service provided for in Section 89 of the Act. Section 90 of the Act deems service in this manner to be effected 5 days after mailing the document. Despite being deemed served with the Notice of Hearing Documents, the Tenant did not sign into the teleconference and this matter proceeded in her absence.

I accept the Landlord's agent's affirmed testimony that the Tenant was served with the Notice to End Tenancy, by posting the Notice to her door, on May 6, 2010. Section 90 of the Act deems service in this manner to be effective 3 days after posting the document. The Tenant did not file a claim disputing the Notice, or pay outstanding rent within 5 days of being served with the Notice. Therefore, in accordance with the provisions of Section 46(5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. In this case, the effective date of the end of tenancy was May 19, 2010. Therefore, the Landlord is entitled to an Order of Possession, effective **2 days after service of the Order on the Tenant.**

I accept the Landlord's agent's undisputed testimony with respect to the unpaid rent for May, 2010, the loss of rent for June, 2010, and the security deposit paid by the Tenant. The Landlord has established his monetary claim in the amount of \$1,200.00.

Pursuant 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 Tenant.

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

Unpaid rent for May, 2010	\$600.00
Loss of rent for June, 2010	\$600.00
Recovery of filing fee	\$50.00
Less security deposit	<u>-\$300.00</u>
TOTAL AFTER SET-OFF	\$950.00

Conclusion

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.

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 14, 2010