

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This is 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 Tenants.

The Landlord's agent gave affirmed testimony at the Hearing. She stated that she mailed the Notice of Hearing documents to both of the Tenants, via registered mail, on May 20, 2010, to the rental unit. The Landlord's agent stated that the documents were returned to the Landlord, unclaimed. The Landlord provided a copy of the registered mail receipt and tracking number for both of the registered mail packages in evidence.

Section 90 of the Act deems service in this manner to be effected 5 days after mailing the documents, whether or not the recipient chooses to pick up the documents. Based on the testimony and documentary evidence provided by the Landlord, I find that the Tenants were sufficiently served with the Notice of Hearing documents pursuant to the provisions of Section 89(1)(c) of the Act.

The Tenants did not sign into the teleconference and the Hearing proceeded in their absence.

Preliminary Matters

At the outset of the Hearing, the Landlord's agent testified that the Tenants abandoned the rental unit on or about May 27, 2010. Therefore an Order of Possession is no longer required and this portion of the Landlord's application is dismissed.

The Landlord's agent testified that the Landlord was no longer seeking loss of rent for the months of June and July, 2010, and is seeking unpaid rent for the month of May, 2010 in the amount of \$755.00 only. The Landlord's agent testified that the Tenants paid a security deposit in the amount of \$387.50 on August 16, 2009, and the Landlord seeks to apply the security deposit towards partial satisfaction of its monetary claim.

Issues to be Decided

- Is the Landlord entitled to a Monetary Order for unpaid rent for the month of May, 2010?

Background and Evidence

The Landlord's agent testified that the Tenants have not paid any of the outstanding rent for May, 2010, as disclosed on the Notice to End Tenancy issued May 11, 2010.

The Landlord's agent testified that the Landlord's agent served the Tenants with the 10 day Notice to End Tenancy for Unpaid Rent at 1:00 p.m. on May 11, 2010, by personally handing the Notice to the Tenant JU at the rental unit.

The Landlord's agent testified that the Tenants paid a security deposit in the amount of \$387.50 on August 16, 2009, and the Landlord seeks to apply the security deposit towards partial satisfaction of its monetary claim.

The Landlord provided a copy of the Notice to End tenancy issued May 1, 2010, and the tenancy agreement between the parties in evidence.

Analysis

Based on the affirmed oral testimony of the Landlord's agent and the documentary evidence provided by the Landlord, I find that the Landlord has established its claim in the amount of \$755.00 for unpaid 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 partial satisfaction of 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 cost of the filing fee from the Tenants.

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

Unpaid rent for May, 2010	\$755.00
Recovery of filing fee	\$50.00
Less security deposit	<u>-\$387.50</u>
BALANCE DUE TO THE LANDLORD AFTER SET-OFF	\$417.50

Conclusion

I hereby provide the Landlord with a Monetary Order against the Tenants in the amount of \$417.50. This Order must be served on the Tenants and may be filed in the Provincial Court of British Columbia (Small Claims Court) 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: July 22, 2010.

Dispute Resolution Officer