



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes: OPR; MNR; MNDC, MNSD; FF

Introduction

This is the Landlord's application for an Order of Possession; a Monetary Order for unpaid rent and loss of rent, to retain the security deposit in partial satisfaction of its monetary claim; and to recover the cost of the filing fee from the Tenant.

The Landlord's agent gave affirmed testimony at the Hearing.

The Landlord's agent testified that the Notice of Hearing documents were mailed to the Tenant, via registered mail, to the rental unit on July 7, 2010. The Landlord provided a copy of the registered mail receipt and tracking number in evidence.

Based on the affirmed testimony of the Landlord's agent and the documentary evidence provided by the Landlord, I am satisfied that the Tenant was duly served with the Notice of Hearing documents by registered mail. 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 proceeded in his absence.

Issues to be Decided

- Is the Landlord entitled to an Order of Possession?
- 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 and evidence:

Monthly rent is \$799.00 per month, due the first day of each month. The Tenant paid a

security deposit in the amount of \$399.50 on December 29, 2009.

On June 8, 2010, the Landlord's agent served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent, by posting the Notice on the Tenant's door at the rental unit.

The Landlord's agent testified that the Tenant has paid some of the money due to the Landlord, but the Landlord did not reinstate the tenancy, and provided the Tenant with receipts for "use and occupancy only". The Landlord's agent requested a monetary order for unpaid rent and loss of rent, as follows:

Unpaid rent as at June 1, 2010	\$1,128.00
Loss of rent for July, 2010	\$799.00
Loss of rent for August, 2010	\$799.00
Less amount paid June 14, 2010	-\$300.00
Less amount paid June 25, 2010	-\$728.00
Less amount paid August 3, 2010	<u>-\$450.00</u>
TOTAL AMOUNT CLAIMED	\$853.00

The Landlord's agent stated that the Tenant had provided his notice that he was moving out of the rental unit on August 31, 2010. The Landlord's agent asked for an Order of Possession effective August 31, 2010.

Analysis

I accept that the Landlord served the Tenant with the Notice to End Tenancy by posting the Notice on the Tenant's door on June 8, 2010. Pursuant to the provisions of Section 90 of the Act, service in this manner is deemed to be effected three days after posting the documents. The Tenant did not pay all of the arrears, or file for dispute resolution, within 5 days of receiving the documents. Therefore, pursuant to Section 46(5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy ended on

June 21, 2010. The Landlord is entitled to an Order of Possession and I make that Order, effective 1:00 p.m., August 31, 2010.

The Landlord's agent has established a monetary claim for loss of rent in the total amount of \$853.00.

Pursuant to Section 72(2)(b) of the Act, the Landlord may apply the security deposit towards partial satisfaction of the Landlord's monetary claim. 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 \$50.00 filing fee from the Tenant.

The Landlord has established a monetary claim as follows:

Loss of rent	\$853.00
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$903.00
Less security deposit	- <u>\$399.50</u>
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$503.50

Conclusion

I hereby grant the Landlord an Order of Possession effective 1:00 p.m., August 31, 2010. 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 \$503.50 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: August 27, 2010.

Dispute Resolution Officer