



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes: OPR; MNR; FF

Introduction

This is the Landlord's application for an Order of Possession; a Monetary Order for unpaid rent and loss of rent, 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 16, 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 her 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 \$920.00 per month, due the first day of each month. The Tenant paid a

security deposit in the amount of \$460.00 on October 2, 2009. The Landlord's agent asked to apply the security deposit in partial satisfaction of any monetary award the Landlord is provided.

On July 3, 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' 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 a receipt for "use and occupancy only". The Landlord's agent requested a monetary award calculated as follows:

| | |
|----------------------------------|------------------|
| Unpaid rent as at August 1, 2010 | \$840.00 |
| Less security deposit | <u>-\$450.00</u> |
| TOTAL AMOUNT CLAIMED | \$380.00 |

The Landlord's agent stated that the Tenant moved out of the rental unit on August 31, 2010 without leaving a forwarding address.

Analysis

The Tenant has moved out of the rental unit and therefore the Landlord's application for an Order of Possession is dismissed.

Based on the undisputed testimony of the Landlord's agent, the Landlord has established a monetary claim for unpaid rent in the amount of \$840.00.

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 his 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:

| | |
|--|------------|
| Unpaid rent | \$840.00 |
| Recovery of the filing fee | \$50.00 |
| Subtotal | \$890.00 |
| Less security deposit | - \$460.00 |
| TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF | \$430.00 |

Conclusion

I hereby grant the Landlord a Monetary Order in the amount of \$430.00 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.

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: September 07, 2010.
