



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes: OPR; MNR; MNDC, 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 September 22, 2010. The Landlord provided the tracking number for the registered mail documents.

Based on the affirmed testimony of the Landlord's agent, 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.

Preliminary Matters

At the outset of the Hearing, the Landlord's agent testified that the Tenant abandoned the rental unit at the end of September in an unclean state, leaving behind garbage and some of his possessions. The Landlord's agent testified that the Landlord safely stored the Tenant's abandoned belongings at the beginning of October, 2010, and advertised the rental unit for rent. The Landlord advertised in the local paper twice a week, on the Landlord's web site and on Craig's list. The rental unit is still vacant. The Landlord's agent stated that the Tenant did not leave a forwarding address.

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

Issues to be Decided

- Is the Landlord entitled to a Monetary Order for unpaid rent and cable for the months of August and September, 2010, and loss of rent for the month of October, 2010?

Background and Evidence

The Landlord's agent gave the following testimony and evidence:

On September 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.

A copy of the tenancy agreement was entered in evidence. The month-to-month tenancy started on May 1, 2010. Monthly rent was \$795.00. There was an additional fee of \$40.00 per month for cable. Total rent and fees were \$835.00, due on the first day of each month. The Tenant paid a security deposit in the amount of \$397.50 on April 27, 2010.

The Landlord's agent requested a monetary order for unpaid rent, cable fees and loss of rent, as follows:

Unpaid rent and cable fees for August, 2010	\$835.00
Unpaid rent and cable fees for September, 2010	\$835.00
Loss of rent and cable fees for October, 2010	<u>\$835.00</u>
TOTAL	\$2,505.00

The Landlord's agent asked to apply the security deposit towards the Landlord's monetary award.

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 September 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.

Based on the undisputed testimony of the Landlord's agent, I find that the Landlord could not re-rent the rental unit for October 1, 2010, because the Tenant had abandoned some of his possessions and had left garbage in the rental unit. Tenancies normally run from the first of the month to the last day of the month. Based on the testimony of the Landlord's agent, I am satisfied that the Landlord has attempted to re-rent the rental unit in a timely fashion. Therefore, I find that the Landlord is entitled to loss of rent for the month of October, 2010, in the amount of \$795.00.

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:

Unpaid rent and cable fees for August and September and loss of rent for October, 2010	\$2,465.00
Recovery of the filing fee	\$50.00
Subtotal	\$2,515.00
Less security deposit	- \$397.50
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$2,117.50

Conclusion

I hereby grant the Landlord a Monetary Order in the amount of \$2,117.50 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: October 28, 2010.
