



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 to recover the cost of the filing fee from the Tenants.

The Landlord's and Owner's agents provided affirmed testimony at the Hearing.

The Landlord's agent testified that she mailed the Notice of Hearing documents and copies of the Landlord's evidence, by registered mail, to each of the Tenant at the rental unit. The Landlord's agent provided tracking numbers for both of the registered mail packages.

I note that the Tenants provided evidence to the file, but the Landlord's agent testified that they did not provide a copy of their evidence to the Landlord.

Based on the above testimony and the evidence package provided by the Tenants, I am satisfied that the Tenants were served with the Notice of Hearing documents. Despite being served with the documents, the Tenants did not sign into the conference and the Hearing proceeded in their absence.

Issue(s) to be Decided

- (1) Is the Landlord entitled to an Order of Possession?
- (2) Is the Landlord entitled to a monetary order for unpaid rent and loss of rent?

Background and Evidence

The Landlord's agent testified that the Notice to End Tenancy issued September 2, 2010, was posted to the Tenants' door at the rental unit on September 2, 2010 at 2:38 p.m.

The tenancy began on July 1, 2010. A copy of the tenancy agreement was entered in evidence. Monthly rent is \$1,000.00, due on the first day of each month. The Tenants were to pay a security deposit in the amount of \$500.00 and a pet damage deposit in the amount of \$500.00 at the beginning of the tenancy. The Owner's agent testified that the Tenants' cheques for rent and the security/pet damage deposits were returned NSF.

The Tenants have not paid any rent, or either of the security or pet damage deposits.

Analysis

I accept the Landlord's agent's testimony and documentary evidence that the Tenants were duly served with the Notice to End Tenancy. Service by posting the Notice on the Tenants' door is deemed to be effected on the third day after posting the Notice. The Tenants did not pay the rental arrears or dispute the Notice to End Tenancy within 5 days of being served with the Notice to End Tenancy. Pursuant to Section 46(5) of the Act, the Tenants are conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. In this case, the effective end to the tenancy was September 15, 2010.

Therefore, the Landlord is entitled to an Order of Possession and I make that order **effective 2 days after service of the Order upon the Tenants.**

Based on the undisputed testimony of the Landlord's agent, and the absence of any evidence to the contrary from the Tenant, the Landlord has established its claim, as follows:

Unpaid rent for July, 2010	\$1,000.00
Unpaid rent for August, 2010	\$1,000.00
Unpaid rent for September, 2010	\$1,000.00
Loss of rent for October, 2010	<u>\$1,000.00</u>
TOTAL:	\$4,000.00

The Landlord has been successful in its application and is entitled to recover the filing fee in the amount of \$50.00 from the Tenants.

I hereby provide the Landlord with a monetary order against the Tenants in the amount of \$4,050.00.

Conclusion

I grant the Landlord an Order of Possession **effective two days from service of the Order upon the Tenants**. This Order must be served on the Tenants 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 **\$4,050.00** against the Tenants. This Order must be served on the Tenants 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.
