



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 hearing dealt with the landlord's Order of Possession for unpaid rent; a Monetary Order for unpaid rent; damage or loss under the Act, regulations or tenancy agreement; and, recovery of the filing fee. The tenants did not appear at the hearing. The landlord testified that the tenants were served with notification of this hearing by registered mail sent to the rental unit and the landlord provided a registered mail tracking number as evidence of service. The landlord explained that one registered mail envelope was served to both tenants and the registered mail was returned as unclaimed. Pursuant to section 71(2) I order that each of the tenants has been sufficiently served with notice of this hearing and I proceeded to hear from the landlord without the tenants present.

Issues(s) to be Decided

1. Is the landlord entitled to an Order of Possession for unpaid rent?
2. Is the landlord entitled to a Monetary Order for unpaid rent and loss of rent?

Background and Evidence

The landlord provided the following undisputed testimony. The landlord and tenants entered into a verbal tenancy agreement in February 2010. The rent was initially set at \$1,500.00 per month payable on the 1st day of every month and the landlord subsequently lowered the monthly rent to \$1,300.00 due to renovations taking place at the residential property. No security deposit was paid by the tenants. The tenants failed to pay rent of \$1,300.00 for August 2010 and on August 30, 2010 the landlord's

agent personally served the 10 Day Notice upon the female tenant. The 10 Day Notice indicates the tenants failed to pay \$1,300.00 in rent August 1, 2010 and has an effective date of September 9, 2010.

The landlord's agent testified through the landlord that he and a witness attended the rental unit August 30, 2010 at approximately 10:00 a.m. and served the 10 Day Notice upon the female tenant. The landlord's agent explained that the female tenant refused to sign the Proof of Service presented to her so the witness signed the Proof of Service to prove service took place. The tenants did not dispute the Notice or pay the outstanding rent.

The landlord explained that he last spoke with the male tenant approximately one week ago and the tenants were still residing in the unit at that time. The landlord has requested unpaid rent for August and September 2010 and requested his application be amended to include loss of rent for October 2010.

Provided as documentary evidence for this hearing were copies of the 10 Day Notice and Proof of Service of the 10 Day Notice.

Analysis

Under section 46 of the Act, when tenants are served with a 10 Day Notice the tenants have five days to pay the outstanding rent or dispute the Notice. Otherwise, the tenants are conclusively presumed to have accepted the Notice and must vacate the rental unit by the effective date. Based upon the evidence presented to me, I am satisfied that the female co-tenant was personally served with the 10 Day Notice on August 30, 2010. Since the tenants did not pay the outstanding rent or dispute the Notice the tenancy within five days of receiving the 10 Day Notice, the tenancy ended on the effective date of September 9, 2010.

I am satisfied the landlord is entitled to an Order of Possession under the Act. With this decision I provide the landlord with an Order of Possession effective two days after service of the Order of Possession upon the tenants. The Order of Possession may also be enforced in the Supreme Court of British Columbia as an Order of that court.

I am satisfied that the landlord is entitled to recover unpaid rent of \$1,300.00 for the month of August and \$1,300.00 for the month of September 2010. Since the tenants failed to vacate the rental unit when required to do so, I grant the landlord's request for amendment of the monetary claim and I further award the landlord loss of rent for the month of October 2010 in the amount of \$1,300.00. As the landlord was successful with this application, I also award the filing fee to the landlord.

I provide for the landlord with this decision a Monetary Order in the amount of \$3,950.00 for unpaid rent, loss of rent for October 2010 and the filing fee. The landlord must serve the Monetary Order upon the tenants and may file it in Provincial Court (Small Claims) to enforce as an Order of that court.

Conclusion

The landlord has been provided an Order of Possession effective two (2) days after service upon the tenants. The landlord has been provided a Monetary Order in the amount of \$3,950.00 to serve upon the tenants.

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 15, 2010.

Dispute Resolution Officer