



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 gave affirmed testimony at the Hearing.

The Landlord testified that he served the Tenant with the Notice of Hearing documents by handing the documents to the Tenant at the rental unit on October 26, 2010, at 6:15 p.m..

I accept the Landlord affirmed testimony that he personally served the Tenant with the Notice of Hearing Package on October 26, 2010. In spite of being served with the documents, the Tenant did not sign into the teleconference and the Hearing proceeded in his 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 for the months of September and October and loss of rent for the month of November, 2010?

Background and Evidence

The Landlord testified that he personally served the Notice to End Tenancy issued October 5, 2010, upon the Tenant at the rental unit on October 5, 2010.

Monthly rent is \$1,275.00 per month, due on the last day of each month. The Tenant did not pay a security deposit. The Tenant has not paid any rent for the months of September, October, or November, 2010. The Tenant remains in the rental unit.

Analysis

I accept the Landlord's agent's testimony that the Tenant was duly served with the Notice to End Tenancy. The Tenant 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 Tenant is 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 October 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 Tenant.**

Based on the undisputed testimony of the Landlord and the absence of any evidence to the contrary from the Tenant, the Landlord has established his monetary claim, as follows:

Unpaid rent for September, 2010	\$1,275.00
Unpaid rent for October, 2010	\$1,275.00
Loss of rent for November, 2010	<u>\$1,275.00</u>
TOTAL:	\$3,825.00

The Landlord has been successful in his application and is entitled to recover the cost of the \$50.00 filing fee from the Tenant.

Conclusion

I hereby provide the Landlord an Order of Possession **effective two days from service of the Order upon the Tenant.** 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 provide the Landlord a Monetary Order in the amount of **\$3,875.00** 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: November 17, 2010.
