

DECISION

Dispute Codes: OPR; MNR; MNDC, MNSD; FF

Introduction

This is the Landlords' application for an Order of Possession; a Monetary Order for unpaid rent and loss of rent, to retain the security deposit in partial satisfaction of their monetary award; and to recover the cost of the filing fee from the Tenant.

The Landlord IB and her agent gave affirmed testimony at the Hearing.

The Landlord's agent testified that the Notice of Hearing documents were personally served on the Tenant at the rental unit of December 15, 2010, at 2:00 p.m. with a witness present.

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. 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

- Are the Landlords entitled to an Order of Possession?
- Are the Landlords entitled to a Monetary Order for unpaid rent for November and December, 2010, and loss of rent for January, 2011?

Background and Evidence

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

The rental unit is a basement suite in the Landlords' house. The Landlords live upstairs.

Monthly rent is \$1,100.00 per month, due the first day of each month. The Tenant paid a security deposit in the amount of \$550.00 on March 9, 2010.

On December 7, 2010, at 12:30 p.m., the Landlord IB personally served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent at the rental unit, with a witness present.

The Landlord' agent testified that the Tenant has not paid any rent for November and December, 2010, or January, 2011. The Tenant remains in the rental unit.

Analysis

I accept the Landlord's agent's affirmed testimony that the Landlords served the Tenant with the Notice to End Tenancy on December 7, 2010. The Tenant did not pay the arrears, or file for dispute resolution, within 5 days of receiving the documents. Therefore, pursuant to Section 46(5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy ended on December 17, 2010. The Landlords are entitled to an Order of Possession and I make that Order, effective 2 days after service of the Order on the Tenant.

The Landlord's agent has established a monetary claim for unpaid rent for November and December, 2010, and loss of rent for January, 2011 in the total amount of \$3,300.00.

Pursuant to Section 72(2)(b) of the Act, the Landlords may apply the security deposit towards partial satisfaction of the Landlords' monetary award. No interest has accrued on the security deposit.

The Landlords have been successful in their application and are entitled to recover the cost of the \$50.00 filing fee from the Tenant.

The Landlords have established a monetary claim as follows:

Unpaid rent	\$2,200.00
Loss of rent	\$1,100.00
Recovery of the filing fee	\$50.00
Subtotal	\$3,350.00
Less security deposit	- \$550.00
TOTAL AMOUNT DUE TO THE LANDLORDS AFTER SET-OFF	\$2,800.00

Conclusion

I hereby grant the Landlords an Order of Possession **effective 2 days after 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 grant the Landlords a Monetary Order in the amount of **\$2,800.00** 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.



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

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: January 10, 2011.
