



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes:

OPR; MNR; MNDC, MNSD; FF

Introduction

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

Both parties gave affirmed testimony at the Hearing.

The Landlord testified that on February 24, 2011, at 5:00 p.m., the Landlord served the Notice of Hearing documents on the Tenant's 18 year old son at the rental unit.

The Tenant signed into the teleconference and further to the provisions of Section 71(2)(c) of the Act, I find that the Tenant was sufficiently served with the Notice of Hearing documents for the purposes of the Act.

Issues to be Decided

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to a Monetary Order of unpaid rent for the month of February and loss of revenue for the month of March?

Background and Evidence

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

The Tenant and her two children moved into the rental unit on May 1, 2004. Monthly

rent is currently \$892.00 per month, due the first day of each month. The Tenant paid a security deposit in the amount of \$375.000 on April 30, 2004. The Tenant has moved out of the rental unit and her 18 year old son remains in the rental unit.

The Tenant did not pay the February rent on time, so the Landlord issued a 10 Day Notice to End Tenancy (the "Notice") on February 2, 2011. The Landlord's agent served the Tenant's son with the Notice on February 2, 2011, at the rental unit with a witness present.

The Tenant paid \$700.00 of the February rent on February 3, 2011, but did not pay all of the rent. No rent has been paid for March, 2011.

The Landlord seeks a monetary award for unpaid rent in the amount of \$192.00 and for loss of revenue for the month of March in the amount of \$892.00.

The Tenant gave the following testimony:

The Tenant concurred with the Landlord's agent's testimony. She stated that she moved out of the rental unit in June or July, 2010, but that she is still "in and out" of the rental unit.

Analysis

The Tenant paid \$700.00 towards the unpaid rent one day after the Landlord issued the Notice to End Tenancy. Based on the testimony of both parties, and pursuant to the provisions of Section 71(2)(c) of the Act, I find that the Landlord sufficiently served the Tenant with the Notice to End Tenancy on February 3, 2011. The Tenant did not pay all of the arrears, or file for dispute resolution, within 5 days of receiving the Notice to End Tenancy. Therefore, pursuant to Section 46(5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy ended on February 13, 2011. The

Landlord is entitled to an Order of Possession and I make that Order effective two days after service of the Order upon the Tenant.

Based on the testimony of both parties, the Landlord's agent has established a monetary claim for unpaid rent and loss of revenue for the months of February and March, 2011, in the total amount of \$1,084.00.

Pursuant to Section 72(2)(b) of the Act, the Landlord may apply the security deposit, together with accrued interest in the amount of \$13.29 towards partial satisfaction of its monetary claim.

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:

Un paid rent and loss of revenue	\$1,084.00
Recovery of the filing fee	\$50.00
Subtotal	\$1,134.00
Less security deposit	- \$388.29
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$745.71

Conclusion

I hereby grant the Landlord 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 Landlord a Monetary Order in the amount of **\$745.71** 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: March 09, 2011.
