Dispute Resolution Services

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes: OPR; MNR; FF

Introduction

This is the Landlord's application for an Order of Possession and a Monetary Order for unpaid rent, and to recover the cost of the filing fee from the Tenants.

The Landlord gave affirmed testimony at the Hearing.

The Landlord testified that he mailed the Notice of Hearing documents to each of the Tenants, by registered mail, on March 2, 2011, to the rental unit. The Landlord provided the tracking numbers and original receipts in evidence.

I am satisfied that the Tenants were duly served with the Notice of Hearing documents, pursuant to the provisions of Section 89(1)(c) of the Act. Despite being served with the Notice of Hearing documents, neither of the Tenants signed into the teleconference and the Hearing proceeded in their absence.

Issues to be Decided

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to a Monetary Order, and if so, in what amount?

Background and Evidence

The Landlord gave the following testimony and documentary evidence:

This tenancy started on September 1, 2010. Monthly rent is $850.00 per month, due the first day of each month. The Tenants paid a security deposit in the amount of $425.00 at the beginning of the tenancy. A copy of the first two pages of the tenancy agreement was entered in evidence. The Tenants did not pay rent for the month of

February, 2011 when it was due and the Landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"). A copy of the Notice was entered in evidence. On February 15, 2011, the Landlord served the Tenants with the Notice, by posting the Notice on the Tenant's door at the rental unit. The Landlord testified that the Tenants remain in the rental unit and that he has now lost revenue for the month of March, 2011. The Landlord asked to retain the security deposit.

Analysis

I accept the Landlord's affirmed testimony that the Landlord served the Tenants with the Notice by posting the Notice on the Tenant's door on February 15, 2011. Pursuant to the provisions of Section 90 of the Act, service in this manner is deemed to be effected three days after posting the documents. The Tenants 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 Tenants are conclusively presumed to have accepted that the tenancy ended on February 28, 2011. 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.**

The Landlord has established a monetary claim for unpaid of rent and loss of revenue in the amount of $1,700.00. Further to the provisions of Section 72 of the Act, the Landlord may apply the security deposit towards partial satisfaction of his monetary award. No interest has accrued on the security deposit.

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 award as follows:

Unpaid rent and loss of revenue	$1,700.00
Recovery of the filing fee	$50.00
Subtotal	$1,750.00
Less set-off of security deposit	-$425.00
TOTAL	$1,325.00

Conclusion

I hereby grant the Landlord an Order of Possession **effective two days after 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 **$1,325.00** 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: March 15, 2011.   _____