



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

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 his monetary claim; and to recover the cost of the filing fee from the Tenant.

The parties gave affirmed testimony at the Hearing.

The Landlord mailed the Notice of Hearing documents, together with the documentary evidence, to the Tenant via registered mail to the rental unit on March 24, 2011.

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

A copy of the tenancy agreement was provided in evidence. This tenancy began on October 1, 2010. Monthly rent is \$900.00 due on the first day of each month. The Tenant paid a security deposit in the amount of \$450.00 on September 17, 2010.

The Landlord issued a 10 Day Notice to End Tenancy (the "Notice") on March 2, 2011, for unpaid rent in the amount of \$1,000.00 (\$100.00 unpaid rent from February and \$900.00 unpaid rent for March, 2010). The Tenant received the Notice on March 2, 2011.

The Tenant paid \$800.00 of the \$1,000.00 owed, leaving a balance of \$200.00 owing for March's rent. The Tenant has not paid rent for the month of April, 2011.

Analysis

The Tenant received the Notice on March 2, 2011. 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 March 12, 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.**

Based on the testimony of both parties, the Landlord has established a monetary claim for unpaid rent for March in the amount of \$200.00 and loss of revenue for the month of April in the amount of \$900.00.

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

The Landlord has been successful in his 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 | \$1,100.00 |
| Subtotal | \$1,150.00 |
| Less security deposit | - \$450.00 |
| TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF | \$700.00 |

Conclusion

I hereby grant the Landlord an Order of Possession **effective 2 days after service on the Order upon the Tenant**. This Order 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 **\$700.00** for service upon the Tenant. This Order 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: April 13, 2011.

Residential Tenancy Branch