



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, OPC, MNR, FF

Introduction

This is the Landlords' application for an Order of Possession; a Monetary Order for unpaid rent and loss of revenue; and to recover the cost of the filing fee from the Tenants.

The Landlord JB gave affirmed testimony at the Hearing.

The Landlord testified that he mailed the Notice of Hearing documents, by registered mail, to each of the Tenants at the rental unit. He testified that he amended his Application and mailed the amended Application and documentary evidence to each of the Tenants, by registered mail, to the rental unit. The Landlords provided copies of the registered mail receipts and tracking numbers in evidence. The Canada Post tracking system indicates that all four packages were successfully delivered on April 11, 2011 and April 13, 2011 respectively.

I accept that the Tenants were served with the Notice of Hearing documents in accordance with the provisions of Section 89(1)(c) of the Act. In spite of being served with the documents, neither of the Tenants signed into the teleconference and the Hearing proceeded in their absence.

Issue(s) to be Decided

- (1) Are the Landlords entitled to an Order of Possession?
- (2) Are the Landlords entitled to a monetary order for unpaid rent for the months of August, 2010 through to March, 2011, and loss of revenue for the month of April 2011?

Background and Evidence

The Landlord JB gave the following testimony:

The tenancy started on August 1, 2010. Monthly rent is \$800.00 due on the first day of each month. The Tenants did not pay a security deposit.

The Tenants started falling behind in their rent payments from the beginning of the tenancy. The Landlords issued a Notice to End Tenancy on March 6, 2011, and served the Tenants with the Notice by handing the Notice to the Tenants at the rental unit on March 6, 2011.

The Landlord stated that the Tenants have made the following payments towards rent over the term of the tenancy:

Date	Amount due	Date	Amount paid	Balance outstanding
Sep 1/10	\$800.00	Sep 7/10	\$600.00	\$200.00
		Sep 29/10	\$500.00	\$300.00CR
Oct 1/10	\$800.00		0	\$500.00
Nov 1/10	\$800.00	Nov 3/10	\$780.00	\$520.00
		Nov 26/10	\$900.00	\$380.00CR
Dec 1/10	\$800.00		0	\$420.00
Jan 1/11	\$800.00	Jan 31/11	\$900.00	\$320.00
Feb 1/11	\$800.00	Feb 22/11	\$375.00	\$745.00
Mar 1/11	\$800.00		0	\$1,545.00

The Landlord testified that the Tenants remain in the rental unit and therefore the Landlords have lost revenue for the month of April, 2011, which they seek to recover from the Tenants.

Analysis

I accept the Landlord's agent's testimony that the Tenants were duly served with the Notice to End Tenancy on March 6, 2011. The Tenants 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 Tenants are conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. In this case, the Landlords had indicated an effective end to the tenancy date of March 21, 2011.

Therefore, the Landlords are entitled to an Order of Possession and I make that order **effective 2 days after service of the Order upon the Tenants.**

I find that the Tenants are overholding and that the Landlords are entitled to recover loss of revenue for the month of April, 2011. Based on the undisputed testimony of the Landlord and the absence of any evidence to the contrary from the Tenants, the Landlords have established their claim, as follows:

Unpaid rent	\$1,545.00
Loss of revenue	<u>\$800.00</u>
TOTAL:	\$2,345.00

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

Conclusion

I hereby provide the Landlords an Order of Possession **effective two days from 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 provide the Landlords a Monetary Order in the amount of **\$2,345.00** for service upon the Tenants. 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 21, 2011.

Residential Tenancy Branch