



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, FF

Introduction

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

The Landlords' agent gave affirmed testimony at the Hearing. The Landlord did not give testimony.

The Landlords' agent testified that he was present when the Landlord KT served the Tenant with the Notice of Hearing documents by handing the documents to the Tenant at the rental unit on May 18, 2011 at 6:30 p.m.

I accept the Landlords' agent's affirmed testimony that the Tenant was served with the Notice of Hearing Package on May 18, 2011. In spite of being served with the documents, the Tenant did not sign into the teleconference and the Hearing proceeded in his 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 April and May, and loss of revenue for the month of June, 2011?

Background and Evidence

The Landlords' agent testified that the Landlord KT personally served the Notice to End Tenancy issued May 11, 2011, upon the Tenant at the rental unit on May 12, 2011 with a witness present. The Landlords provided a proof of service document in evidence.

There was no written tenancy agreement. Monthly rent is \$675.00 per month, due on the first day of each month. The Tenant paid a security deposit in the amount of \$337.50 at the beginning of the tenancy. The Tenant owes partial rent for the month of April, 2011, in the amount of \$400.00. The Tenant has not paid any rent for the months of May and June, 2011. The Tenant remains in the rental unit.

The Landlords' agent asked to apply the security deposit towards partial satisfaction of the Landlords' monetary award.

Analysis

I accept the Landlords' agent's testimony and the Landlords' documentary evidence that the Tenant was duly served with the Notice to End Tenancy. The Tenant 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 Tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. In this case, the effective end to the tenancy was May 22, 2011.

The Tenant is overholding and therefore, the Landlords are entitled to an Order of Possession **effective 2 days after service of the Order upon the Tenant.**

Based on the undisputed testimony of the Landlords' agent, and the absence of any evidence to the contrary from the Tenant, the Landlords have established their monetary claim, as follows:

Unpaid rent for April, 2011	\$400.00
Unpaid rent for May, 2011	\$675.00
Loss of revenue for June, 2011	<u>\$675.00</u>
TOTAL:	\$1,750.00

Pursuant to the provisions of Section 72 of the Act, the Landlords may apply the security deposit in partial satisfaction of their monetary award.

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

I hereby provide the Landlords with a monetary order against the Tenant, calculated as follows:

Rent arrears and loss of revenue	\$1,750.00
Recovery of the filing fee	\$50.00
Less security deposit	<u><\$337.50></u>
TOTAL amount due to Landlords after set off	\$1,462.50
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Conclusion

I hereby provide the Landlords an Order of Possession **effective two days from service of 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 provide the Landlords a Monetary Order in the amount of **\$1,462.50** 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: June 10, 2011.

Residential Tenancy Branch