



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR

Introduction

This is the Landlord's application for an Order of Possession and a Monetary Order for unpaid rent.

The Landlord's agent gave affirmed testimony at the Hearing.

The Landlord's agent testified that he mailed the Notice of Hearing documents, by registered mail, to the Tenant at the rental unit on April 19, 2011. The Landlord provided a copy of the registered mail receipt and tracking number in evidence.

I accept the Landlord's agent's affirmed testimony that he served the Tenant with the Notice of Hearing documents in accordance with the provisions of Section 89(1)(c) of the Act. Service in this manner is deemed to be effected 5 days after mailing the documents. In spite of being served with the documents, the Tenant did not appear at today's Hearing and the Hearing proceeded in his absence.

Issue(s) to be Decided

- (1) Is the Landlord entitled to an Order of Possession?
- (2) Is the Landlord entitled to a monetary order for unpaid rent for the month of April, 2011, and loss of revenue for the month of May, 2011?

Background and Evidence

The Landlord's agent testified that he personally served the Notice to End Tenancy issued April 12, 2011, upon the Tenant at the rental unit on April 12, 2011 at 8:00 p.m.

The tenancy began on January 1, 2011. A copy of the tenancy agreement was provided in evidence. Monthly rent is \$1,250.00, due on the first day of each month. The Tenant paid a security deposit in the amount of \$625.00 on December 14, 2010, along with three months' rent in advance. The Tenant has not paid rent for April or May, 2011. The Tenant remains in the rental unit.

The Landlord asked to apply the security deposit towards partial satisfaction of his monetary award and to recover the cost of the filing fee from the Tenant.

Analysis

I accept the Landlord's agent's testimony 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 April 22, 2011.

Therefore, 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 undisputed testimony of the Landlord's agent, and the absence of any evidence to the contrary from the Tenant, the Landlord has established her claim, as follows:

Unpaid rent for April, 2011	\$1,250.00
Loss of revenue for May, 2011	<u>\$1,250.00</u>
TOTAL:	\$2,500.00

Pursuant to the provisions of Section 72 of the Act, the Landlord may apply the security deposit in partial satisfaction of her monetary claim. No interest has accrued on the security deposit.

The Landlord's application had merit and I find that the Landlord is entitled to recover the cost of the filing fee from the Tenant.

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

Rent arrears and loss of revenue	\$2,500.00
Recovery of filing fee	\$50.00
Less security deposit	<u><\$625.00></u>
TOTAL amount due to Landlord after set off	\$1,925.00
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Conclusion

I hereby provide the Landlord an Order of Possession **effective two days from 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 provide the Landlord a Monetary Order in the amount of **\$1,925.00** 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: May 17, 2011.

Residential Tenancy Branch