

DECISION

Dispute Codes:

OPR; MNR; FF

Introduction

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

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

The Landlord's agent testified that the Notice of Hearing documents and copies of the Landlord's evidence were mailed to the Tenant, via registered mail, to the rental unit on August 8, 2011. The Landlord provided the original receipt and tracking numbers for the registered documents.

Based on the affirmed testimony of the Landlord's agent and the documentary evidence provided by the Landlord, I am satisfied that the Tenant was duly served with the Notice of Hearing documents by registered mail. Service in this manner is deemed to be effected 5 days after mailing the documents. Despite being served with the Notice of Hearing documents, the Tenant did not sign into the teleconference and the Hearing proceeded in her absence.

Issues to be Decided

- Is the Landlord entitled to an Order of Possession pursuant to the provisions of Section 55(2)(b) of the Act?
- Is the Landlord entitled to a Monetary Order pursuant to the provisions of Section 67 of the Act?

Background and Evidence

The Landlord's agent gave the following testimony and documentary evidence:

Monthly rent is \$1,300.00, due the first day of each month. Rent does not include utilities and the Tenant is responsible for paying have of the utilities.

The Landlord provided a written statement in evidence indicating that on July 4, 2011, he had filed for an Order of Possession and Monetary Order. The Landlord submitted that he was not successful in his application but was given leave to re-issue a Notice to End Tenancy.

The Landlord's agent testified that on July 27, 2011, the Landlord issued a new Notice to End Tenancy for Unpaid rent in the amount of \$1,620.00 that was due on July 1, 2011, plus unpaid utilities in the amount of \$731.37. A copy of the Notice was provided in evidence. He testified that on July 27, 2011, the Landlord served the Tenant with the 10 Day Notice to End Tenancy for Unpaid Rent, by posting the Notice on the Tenant's door at the rental unit.

The Landlord's agent testified that the Tenant remains in the rental unit and had not paid any of the outstanding rent, or any rent for the month of August or September. He added that an additional utility bill is now overdue. Copies of the utility bills were provided in evidence.

The Landlord's application is for an Order of Possession and a Monetary Order calculated as follows:

Unpaid rent for May, 2011	\$320.00
Unpaid rent for July, 2011	\$1,300.00
Unpaid rent for August, 2011	\$1,300.00
Unpaid utilities	<u>\$731.37</u>
TOTAL	\$3,651.37

The Landlord's agent stated that since filing his application, the Landlord received another utility bill in the amount of \$23.56, of which the Tenant's share is \$11.78. A copy of this utility bill was provided in evidence. In addition, the Landlord's agent submitted that the Tenant has not paid any rent for the month of September, 2011. The Landlord's agent submitted that copies of all the utility bills were provided to the Tenant on August 8, 2011, by registered mail.

Analysis

I accept the Landlord's agent's affirmed testimony that the Landlord served the Tenant with the Notice to End Tenancy by posting the Notice on the Tenant's door on July 27, 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 Tenant did not pay all of 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 August 10, 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.**

I allowed the Landlord's agent's application to amend the Landlord's application to include loss of revenue for the month of September, 2011, and unpaid utilities in the amount of \$11.78.

The Landlord's previous application was heard on July 27, 2011. The Dispute Resolution Officer dismissed the Landlord's application for an Order of Possession, but provided the Landlord with a monetary order for unpaid rent up to and including July, 2011 in the amount of \$1,620.00 and utilities in the amount of \$409.26. The Dispute Resolution Officer also set off the security deposit against the Landlord's monetary award and awarded the cost of the filing fee. On July 29, 2011, a monetary order in the amount of \$1,429.26 was mailed to the Landlord, along with the Dispute Resolution Officer's Decision and Reasons. Therefore, some of the Landlord's monetary claim has already been decided and I will deal only with the Landlord's monetary claims for money owed after July 27, 2011.

Based on the undisputed testimony and documentary evidence provided, the Landlord's agent has established a monetary award, calculated as follows:

Unpaid rent for August, 2011	\$1,300.00
Loss of rent for September, 2011	\$1,300.00
Unpaid utilities	<u>\$11.78</u>
TOTAL	\$2,611.78

The Landlord has been successful in his application and is entitled to recover the cost of the **\$50.00** filing fee from the Tenant.

Conclusion

I hereby provide the Landlord an Order of Possession **effective 2 days after 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 **\$2,661.78** 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.

Dated: September 07, 2011.

Residential Tenancy Branch