



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR; MNR; MNSD; FF

Introduction

This is the Landlord's application for an Order of Possession; a Monetary Order for unpaid rent; 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 Landlord's agent gave affirmed testimony at the Hearing.

The Landlord's agent testified that the Notice of Hearing and copies of the Landlord's documentary evidence were mailed to the Tenant, via registered mail, to the rental unit on August 10, 2011. The Landlord's agent testified that a copy of the Landlord's Application for Dispute Resolution was mailed to the Tenant, via registered mail, to the rental unit on August 11, 2011. The Landlord provided copies of the registered mail receipts and tracking numbers in evidence.

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 and evidence package 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 his absence.

Issues to be Decided

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to a Monetary Order for unpaid rent?

Background and Evidence

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

Monthly rent is \$2,880.00 per month, due the first day of each month. The Tenant paid a security deposit in the amount of \$1,400.00 on October 6, 2009.

The Tenant's rent cheque for July 1, 2011, was returned to the Landlord, insufficient funds. On July 27, 2011, the Landlord's agent posted a 10 Day Notice to End Tenancy for Unpaid Rent on the Tenant's door at the rental unit. A copy of the Notice was provided in evidence.

The Tenant's rent cheques for August and September, 2011, were also returned to the Landlord, insufficient funds.

The Landlord's agent was at the rental unit 3 weeks ago and heard the television or radio on inside the rental unit, but the Tenant did not answer the door. The Landlord believes that the Tenant is still living in the rental unit.

Analysis

I accept that the Landlord's agent 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 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.

The Landlord's agent has established a monetary award for unpaid rent and loss of revenue, as follows:

Unpaid rent for July, 2011	\$2,880.00
Unpaid rent for August, 2011	\$2,880.00
Loss of revenue for September, 2011	<u>\$2,880.00</u>
Total monetary award	\$8,640.00

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:

Unpaid rent and loss of revenue	\$8,640.00
Subtotal	\$8,690.00
Less security deposit	- <u>\$1,400.00</u>
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$7,290.00

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 **\$7,290.00** against the Tenant. This Order must be served on the Tenant and 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: September 12, 2011.

Residential Tenancy Branch