



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR; MNR; MNDC; FF

Introduction

This is the Landlord's 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 Tenant.

The parties gave affirmed testimony at the Hearing.

The Landlord's agent testified that he mailed the Notice of Hearing documents to each of the Tenants, via registered mail, on August 11, 2011. The Landlord provided the registered mail receipts and tracking numbers in evidence.

Issues to be Decided

- Is the Landlord entitled to an Order of Possession pursuant to the provisions of Section 55 of the Act?
- Is the Landlord entitled to a Monetary Order against the Tenants pursuant to the provisions of Section 67 of the Act?

Background and Evidence

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

A copy of the tenancy agreement was provided in evidence. Monthly rent is \$790.00 per month, due the first day of each month. The Tenant paid a security deposit in the amount of \$335.00 on April 1, 2005.

The Landlord's agent testified that he issued a Notice to End Tenancy on July 13, 2011, for \$1,370.00 in unpaid rent that was due on July 1, 2011. He stated that the Tenant made the following payments towards unpaid rent:

Date	Rent due	Rent paid	Balance owing
July 22, 2011		\$270.00	\$1,100.00
August 1, 2011	\$790.00		\$1,890.00
August 5, 2011		\$640.00	\$1,250.00

The Landlord's agent stated that each time rent was paid down, the Landlord provided the Tenants with a receipt, indicating "for use and occupancy only; does not constitute reinstatement of the tenancy agreement". The Landlord provided copies of the receipts in evidence.

The Landlord's agent testified that no rent has been paid towards September's rent. He asked to apply the security deposit towards the Landlord's monetary award.

The Tenant gave the following testimony:

The Tenant concurred with the Landlord's agent's testimony. He stated that he was hoping to agree on a payment schedule for the outstanding rent and that he would be out of the rental unit by September 15, 2011.

Analysis

This is an uncontested Notice to End Tenancy. Based on the testimony of both parties, I accept that the Landlord served the Tenant with the Notice to End Tenancy by posting the Notice on the Tenant's door on July 13, 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, and therefore the effective end of the tenancy was July 26, 2011. I find

that the Landlord is entitled to an Order of Possession effective 2 days after service of the Order upon the Tenant.

Based on the testimony of both parties, the Landlord's agent has established a monetary claim for unpaid rent and loss of revenue for July to September, 2011, in the total amount of \$2,040.00.

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. Interest has accrued on the security deposit in the amount of \$11.86.

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

The Landlord has established a monetary claim as follows:

Unpaid rent and loss of rent	\$2,040.00
Subtotal	\$2,090.00
Less security deposit and accrued interest	- \$346.86
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$1,743.14

Conclusion

I hereby provide the Landlord an Order of Possession effective 2 days after service of the Order upon the Tenants. This Order 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 \$1,743.14 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: September 13, 2011.

Residential Tenancy Branch