



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 Landlords' application for an Order of Possession and a Monetary Order for unpaid rent.

The Landlords gave affirmed testimony at the Hearing.

The Landlords agent testified that the Notice of Hearing documents and documentary evidence were mailed to the Tenant, via registered mail, to the rental unit on August 22, 2011. The Landlords provided a copy of the receipt and tracking numbers in evidence.

Based on the Landlords' affirmed testimony 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.

Preliminary Matters

The Landlords testified that the Tenant remains in the rental unit and has not paid any rent for the month of September.

I allowed the Landlords to amend their application to include loss of revenue for the month of September, 2011.

Issues to be Decided

- Are the Landlords entitled to an Order of Possession?
- Are the Landlords entitled to a Monetary Order for unpaid rent for July and August and for loss of revenue for September, 2011?

Background and Evidence

The Landlords gave the following testimony and evidence:

A copy of the tenancy agreement was provided in evidence. This tenancy began on November 15, 2008. Monthly rent is \$609.99, due the first day of each month. The Tenant paid a security deposit in the amount of \$287.50 and a pet damage deposit in the amount of \$100.00 on December 1, 2008.

On July 1, 2011, the Landlord's agent served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent for July, 2011, by handing the document to the Tenant at the rental unit. The Landlord JL testified that she paid cable for the Tenant in the amount of \$43.00 for the month of July, 2011, on the understanding that the Tenant would pay the bill, but the Tenant did not.

On August 2, 2011, the Landlord JL served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent for August, 2011, by handing the document to the Tenant at the rental unit.

The Landlords requested a monetary order for unpaid rent and loss of rent, as follows:

Unpaid rent for July, 2011	\$609.99
Cost of cable	\$43.00
Unpaid rent for August, 2011	\$609.99
Loss of revenue for September, 2011	<u>\$609.99</u>
TOTAL AMOUNT CLAIMED	\$1,872.97

Analysis

I find that the Notice to End Tenancy issued on July 1, 2011, is not a valid notice. Rent was due on the first day of each month, so the earliest possible date the Landlords could issue a Notice to End Tenancy for July rent would be July 2, 2011.

I accept that the Landlord JL served the Tenant with the Notice to End Tenancy issued on August 2, 2011, by handing the document to the Tenant at the rental unit. 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 12, 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 Landlords have established a monetary claim for unpaid rent and loss of revenue in the total amount of \$1,829.97. The Landlords did not provide sufficient evidence to support their claim for cable fees in the amount of \$43.00 and this portion of their application is dismissed.

Pursuant to the provisions of Section 72(2)(b) of the Act, the Landlords may apply the security deposit and pet damage deposit towards partial satisfaction of the Landlords' monetary award. A small amount of interest has accrued for the month of December, 2008 in the amount of \$.49. No interest accrued for the years 2009, 2010 and 2011.

I hereby provide the Landlords a Monetary Order, calculated as follows:

Unpaid rent and loss of revenue	\$1,829.97
TOTAL AMOUNT DUE TO THE LANDLORDS AFTER SET-OFF	\$1,441.98

Conclusion

I hereby provide the Landlords an Order of Possession **effective 2 days after 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 **\$1,441.98** 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: September 22, 2011.

Residential Tenancy Branch