



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. This matter initially proceeded by the Direct Request process on November 30, 2011, pursuant to the provisions of Section 55(4) of the Act. On November 30, 2011, the Dispute Resolution Officer found that he was "unable to consider" the application by way of Direct Request Proceeding and adjourned it to a participatory Hearing for further evidence with respect to service of the Notice to End Tenancy and the monetary amount claimed.

Both parties attended the reconvened hearing and gave affirmed testimony.

Issues to be Decided

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to a Monetary Order for unpaid rent for the month of November, 2011?

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 \$830.00 per month, due the first day of each month. The Tenant paid a security deposit in the amount of \$415.00 on August 16, 2011.

On November 3, 2011, the Landlord issued a Notice to End Tenancy for Unpaid Rent (the "Notice") in the amount of \$820.00 on November 3, 2011. The Landlord's agent testified that the Tenant paid no rent for November and that she had made an error on the Notice and on the Landlord's Application for Dispute Resolution by indicating that the Tenant owed \$820.00 in unpaid rent rather than \$830.00. The Landlord's agent stated that therefore she was only seeking a monetary order in the amount of \$820.00 in unpaid rent for November, 2011. She stated that on November 3, 2011, she the Tenant with the Notice by posting it on the Tenant's door at the rental unit.

On July 31, 2009, the Landlord's agent mailed both of the Tenants the Notice of Hearing documents, by registered mail, to the Tenants' residential address. The Landlord's agent provided a copy of the registered mail receipts and tracking numbers.

The Landlord's agent testified that the Tenant has not paid any rent for December, 2011, and asked to amend her application to include loss of revenue for the month of December. The Landlord's agent requested a monetary order for unpaid rent and loss of revenue, as follows:

Unpaid rent for November, 2011	\$820.00
Loss of revenue for December, 2011	<u>\$830.00</u>
TOTAL	\$1,650.00

The Tenant gave the following testimony:

The Tenant concurred with the Landlord's agent's testimony. He stated that he was starting a new job on January 6, 2012, and promised that he catch up with the rent arrears as soon as possible.

Analysis

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 November 3, 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. This is an uncontested Notice to End Tenancy, meaning that 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 November 16, 2011. I find that the Landlord is entitled to an Order of Possession **effective 2 days after service of the Order upon the Tenant.**

The Landlord's agent asked to amend the Landlord's application to include loss of revenue for the month of December, 2011. The Tenant agreed that he had not paid rent since October, 2011, and I amended the Landlord's application to include loss of revenue for December, 2011.

Based on the testimony of both parties, the Landlord's agent has established a monetary claim for unpaid rent and loss of revenue in the total amount of **\$1,650.00.**

The Landlord continues to hold the security deposit which must be applied in accordance with the provisions of the Act.

Conclusion

I hereby provide the Landlord 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 Landlord a Monetary Order in the amount of **\$1,650.00** 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: December 15, 2011.

Residential Tenancy Branch