



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR; MNR; MNDC, MNSD; FF

Introduction

This is the Landlords' application for an Order of Possession; a Monetary Order for unpaid rent, unpaid utilities and loss of revenue; to retain the security deposit in partial satisfaction of their monetary award; and to recover the cost of the filing fee from the Tenants.

The Landlords gave affirmed testimony at the Hearing.

The Landlord IP testified that the Notice of Hearing documents were mailed to each of the Tenants, via registered mail, to the rental unit on October 27, 2011. The Landlords provided the receipts and tracking numbers for the three registered documents in evidence.

Based on the Landlord's affirmed testimony and the documentary evidence provided by the Landlords, I am satisfied that the three Tenants were 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 Tenants did not sign into the teleconference and the Hearing proceeded in their absence.

Issues to be Decided

- Are the Landlords entitled to an Order of Possession?
- Are the Landlords entitled to a Monetary Order, and if so, in what amount?

Background and Evidence

The Landlords gave the following testimony and evidence:

The parties entered into a month-to-month tenancy agreement on April 26, 2009. A copy of the tenancy agreement was provided in evidence.

Monthly rent is \$900.00, due the first day of each month. Utilities, which are in the Landlords' name, are not included in the rent. The Tenants paid a security deposit in the amount of \$450.00 in May, 2009.

The utilities are on a monthly equal payment plan, currently set \$143.50. The Landlords testified that they routinely provided the Tenants with a copy of the utility bill during the first week of each month and the Tenants paid the Landlords directly. The Tenants have not paid utilities for the month of September, 2011, and the Landlords seek a monetary award in the amount of \$143.50 for unpaid utilities.

The Landlords stated that beginning in February, 2011, the Tenants started paying rent twice monthly because of their financial situation. The Landlords provided a copy of the Tenant Ledger in evidence. On September 16, 2011, the Landlords issued a Notice to End Tenancy for Unpaid Rent that was due on September 1, 2011. The Landlord RP testified that he served the Tenants with the Notice to End Tenancy by handing the document to the Tenant SLM on September 16, 2011, at the rental unit.

The Landlords testified that the Tenants have made the following payments:

Balance carried forward July 29, 2011				\$323.97
Aug. 1, 2011	\$900.00			\$1,223.97
Aug. 5, 2011		\$143.50		\$1,367.47
Aug. 16, 2011			\$600.00	\$767.47
Aug. 26, 2011			\$600.00	\$167.47
Sep. 1, 2011	\$900.00			\$1,067.47
Sep. 6, 2011		\$143.50		\$1,210.97
Sep. 24, 2011			\$300.00	\$910.47
Sep. 28, 2011			\$400.00	\$510.67
Oct. 1, 2011	\$900.00			\$1,410.97
Oct. 8, 2011			\$500.00	\$910.97
Nov. 1, 2011	\$900.00			\$1,810.97

Analysis

I accept that the Landlord RP served the Tenants with the Notice to End Tenancy on September 16, 2011, in accordance with the provisions of Sections 88(a) and (e) of the Act. I accept the undisputed testimony of the Landlords that the Tenants 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 Tenants are conclusively presumed to have accepted that the tenancy ended on September 26, 2011. I find that the Landlords are entitled to an Order of Possession effective two days after service of the Order upon the Tenants.

Based on the undisputed testimony and documentary evidence provided by the Landlords, I find that the Landlords have established a monetary award in the amount of \$1,810.97.

Pursuant to Section 72(2)(b) of the Act, the Landlords may apply the security deposit towards partial satisfaction of their monetary award. No interest has accrued on the security deposit.

The Landlords have been successful in their application and are entitled to recover the cost of the \$50.00 filing fee from the Tenants.

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

Monetary award	\$1,810.97
Subtotal	\$1,860.97
Less security deposit	- \$450.00
TOTAL AMOUNT DUE TO THE LANDLORDS AFTER SET-OFF	\$1,410.97

Conclusion

I hereby provide the Landlords 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 Landlords a Monetary Order in the amount of **\$1,410.97** 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: November 17, 2011.

Residential Tenancy Branch