



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPC; MNDC; 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 and pet damage deposit in satisfaction of its monetary claim; and to recover the cost of the filing fee from the Tenants.

The Landlord's agent gave affirmed testimony at the Hearing.

The Landlord's agent testified that the Notice of Hearing documents were had delivered to the Tenants at the rental unit on December 20, 2011.

Based on the affirmed testimony of the Landlord's agent, I am satisfied that the Tenants were duly served with the Notice of Hearing documents on December 20, 2011. 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

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

Background and Evidence

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

The tenancy began on June 30, 2011. Monthly rent is \$900.00 per month, due the first day of each month. The Tenants paid a security deposit in the amount of \$450.00 and a pet damage deposit in the amount of \$450.00. A copy of the tenancy agreement was provided in evidence.

This is an undisputed Notice to End Tenancy for Cause. The Landlord's agent testified that the Notice to End Tenancy was served in person upon the Tenants on October 21, 2011. A copy of the Notice to End Tenancy was provided in evidence.

The Landlord's agent testified that the Tenants did not pay rent for the month of December, 2011. She stated that she believes the Tenants may have moved out of the rental unit, but that she is not certain because the neighbours have heard a cat crying in

the rental unit. The Landlord's agent asked for an Order of Possession and a monetary order for unpaid rent for the month of December in the amount of \$900.00.

Analysis

I accept that the Landlord's agent's testimony that she served the Tenants with the Notice to End Tenancy on October 21, 2011. The Tenants did not file for dispute resolution to cancel the Notice to End Tenancy, within 10 days of receiving the Notice. Therefore, pursuant to Section 47(5) of the Act, the Tenants are conclusively presumed to have accepted that the tenancy ended on November 30, 2011. The Landlord is entitled to an Order of Possession and I make that Order, **effective immediately upon posting the Order on the door of the rental unit.**

The Landlord's agent seeks unpaid rent for the month of December, 2011. The tenancy ended on November 30, 2011, and therefore no rent was due from the Tenants for the month of December, 2011. However, I am satisfied that the Landlord has suffered loss of revenue for the month of December due to the Tenants overholding, and I have amended the Landlord's application to include a request for compensation for damage or loss in the amount of \$900.00. I grant his portion of the Landlord's application.

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

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

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

Loss of revenue for December, 2011	\$900.00
Recovery of filing fee	<u>\$50.00</u>
Subtotal	\$950.00
Less security deposit and pet damage deposit	<u>- \$900.00</u>
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$50.00

Conclusion

I hereby provide the Landlord an Order of Possession **effective immediately upon posting the Order on the door of the rental unit.** 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 **\$50.00** 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.

Dated: January 06, 2012.

Residential Tenancy Branch