



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR; MNR; 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 in partial satisfaction of its monetary claim; and to recover the cost of the filing fee from the Tenant.

The Landlord gave affirmed testimony at the Hearing.

The Landlord's agent testified that the Notice of Hearing documents and copies of the Landlord's evidence were mailed to the Tenant, via registered mail, to the rental unit on March 21, 2012. The Landlord provided the receipt and tracking numbers in evidence.

Preliminary Matter

The Landlord testified that he was not certain if the Tenant was still living in the rental unit. He stated that he spoke to the Tenant on the phone on April 2nd or 3rd and the Tenant told him he would be moving out on April 6th or 7th. The Landlord lives in another City and is not certain if the Tenant has moved, as promised. The Landlord asked for an Order of Possession in the event that the Tenant is still there.

Based on the affirmed testimony and documentary evidence of 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, March 26, 2012. At that time, the Tenant was still occupying the rental unit. Despite being served with the Notice of Hearing documents, the Tenant did not sign into the teleconference and the Hearing proceeded in his absence.

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 March, 2012?
- May the Landlord apply the security deposit in partial satisfaction of his monetary award?

Background and Evidence

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

Monthly rent is \$1,200.00 per month, due the first day of each month. The Tenant paid a security deposit in the amount of \$600.00 in November, 2011.

On March 12, 2012, the Landlord served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent, by posting the Notice on the Tenant's door at the rental unit. The Tenant did not pay any of the arrears.

Analysis

I accept that the Landlord served the Tenant with the Notice to End Tenancy by posting the Notice on the Tenant's door on March 12, 2012. 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. The Tenant did not pay all of the arrears, or file for dispute resolution, within 5 days of receiving the documents. Therefore, pursuant to the provisions of Section 46(5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy ended on March 25, 2012. 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.

I accept the Landlord's undisputed testimony that the Tenant did not pay any rent for the month of March, 2012 and therefore I find that the Landlord has established a monetary claim for unpaid rent in the amount of \$1,200.00.

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

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

The Landlord has established a monetary claim as follows:

Unpaid rent	1,200.00
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$1,250.00
Less security deposit	<u>\$600.00</u>
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$650.00

Conclusion

I hereby grant 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 grant the Landlord a Monetary Order in the amount of **\$650.00** against the Tenant. This Order must be served on the Tenant and 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: April 11, 2012.

Residential Tenancy Branch