



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 Landlord's application for an Order of Possession; a Monetary Order for unpaid rent, late fees and loss of revenue; 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's agent gave affirmed testimony at the Hearing.

The Landlord's agent testified that he handed the Notice of Hearing documents to the Tenant on May 25, 2012, at the rental unit.

Based on the affirmed testimony of the Landlord's agent, I am satisfied that the Tenant was duly served with the Notice of Hearing documents. The Hearing remained open for 15 minutes. Despite being served with the Notice of Hearing documents, the Tenant did not sign into the teleconference and the Hearing proceeded and concluded in his absence.

Preliminary Matters

At the outset of the Hearing, I advised the Landlord's agent that I was concerned about the validity of the Notice to End Tenancy for Unpaid Rent issued May 11, 2012 (the "Notice"). The copy of the Notice provided in evidence by the Landlord is only one page of the two page notice. In addition, the copy that was provided to the Residential Tenancy Branch was not signed until the Landlord's agent signed it when he was providing it as evidence. Section 52 of the Act requires a notice given by a landlord to be in the approved form and to be signed by the landlord.

The Landlord's agent affirmed that the Tenant was provided with both pages of the Notice and that he had signed the original Notice before serving it upon the Tenant.

Based on the affirmed testimony of the Landlord and in the absence of any evidence to the contrary from the Tenant, I accept that the Notice that was provided to the Tenant complied with Section 52 of the Act.

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:

A copy of the tenancy agreement was provided in evidence. This tenancy began on August 1, 2009.

Monthly rent is \$920.00, due the first day of each month. The Tenant paid a security deposit in the amount of \$450.00 at the beginning of the tenancy.

The Landlord's agent testified that on May 11, 2012, the he served the Tenant with the Notice, by registered mail, to the rental unit. The Landlord provided a copy of the registered mail receipt and tracking number in evidence.

The Landlord' agent testified that the Tenant paid \$300.00 toward unpaid rent on May 25, 2012, when he served the Tenant with the Notice of Hearing documents. He stated that he told the Tenant that this was partial payment only and that it did not reinstate the tenancy.

The Landlord provided a tenant ledger in evidence. The Landlord's agent requested a monetary order for unpaid rent, late fees and loss of revenue, as follows:

Unpaid rent as at May 11, 2012	\$1,727.90
Loss of revenue for June, 2012	\$920.00
Less amount paid May 25, 2012	<u>-\$300.00</u>
TOTAL AMOUNT CLAIMED	\$2,347.90

Analysis

I accept that the Landlord served the Tenant with the Notice to End Tenancy by registered mail sent May 11, 2012. Pursuant to the provisions of Section 90 of the Act, service in this manner is deemed to be effected five days after mailing 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 Section 46(5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy ended on May 26, 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.**

Based on the Landlord's undisputed evidence , I find that the Landlord has established a monetary claim for unpaid rent and loss of revenue in the total amount of **\$2,347.90**.

Pursuant to 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 its application and I find that it is entitled to recover the cost of the \$50.00 filing fee from the Tenant.

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

Unpaid rent and loss of revenue	\$2,347.90
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$2,397.90
Less security deposit	<u>- \$450.00</u>
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$1,947.90

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 **\$1,947.90** 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: June 15, 2012.

Residential Tenancy Branch