



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 Landlords' application for an Order of Possession; a Monetary Order for unpaid rent; to retain the security deposit in partial satisfaction of their 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 the Notice of Hearing documents were mailed to the Tenant, via registered mail, to the rental unit on June 8, 2012. The Landlord provided the receipt and tracking number for the registered documents.

Based on the affirmed testimony of the Landlord's agent and the documentary evidence provided by 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. 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, and if so, in what amount?

Background and Evidence

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

A copy of the tenancy agreement was provided in evidence. This tenancy began on October 1, 2009. At the beginning of the tenancy, monthly rent was \$1,700.00, due the first day of each month. At some point in 2011, the Landlord agreed to lower the rent to \$1,550.00 per month. The Tenant paid a security deposit in the amount of \$850.00 at the beginning of the tenancy.

The Tenant was three months behind in rent, for the months of December, 2011, January and February, 2012, but paid the outstanding rent in March, 2012. However, the Tenant did not pay March's rent when it was due on March 1, 2012. On March 7,

the Landlord issued a Notice to End Tenancy and posted it to the Tenant's door on the same day. The Tenant has also failed to pay rent when it was due on April 1, May 1 and June 1, 2012. On April 7, May 7 and June 7, the Landlord's agent posted Notices to End Tenancy for Unpaid Rent on the Tenant's door. Copies of the Notices to End Tenancy were provided in evidence.

The Tenant e-mailed the Landlord's agent and telephoned her several times over the past four months, promising to pay within 5 days, but has not paid any of the outstanding rent. The Landlord's agent stated that based on the Tenant's past history, the owner of the rental unit believed that the Tenant would pay the outstanding rent. When the Tenant had made no payment for four months, the owner instructed the Landlord's agent to file an Application for Dispute Resolution.

Analysis

I accept that the Landlord served the Tenant with the Notices to End Tenancy by posting the Notices on the Tenant's door on March 7, April 7, May 7 and June 7, 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 Section 46(5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy has ended. 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 undisputed testimony of the Landlord's agent, I find that the Landlord is entitled to a monetary award in the amount of **\$6,200.00** for unpaid rent.

Pursuant to Section 72(2)(b) of the Act, the Landlord may apply the **\$850.00** 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 Tenant.

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

Unpaid rent	\$6,200.00
Recovery of the filing fee	<u>\$50.00</u>

Subtotal	\$6,250.00
Less security deposit	- \$850.00
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$5,400.00

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 **\$5,400.00** 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: June 27, 2012.

Residential Tenancy Branch