



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR; MNR; FF

Introduction

This is the Landlord's application for an Order of Possession; a Monetary Order for unpaid rent; and to recover the cost of the filing fee from the Tenant.

The Landlord's agents 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 July 21, 2012. The Landlord provided the receipt and tracking numbers for the registered documents.

Preliminary Matters

The Landlord's agent testified that the Tenant moved out of the rental unit on July 29, 2012. He stated that the registered documents were returned to him on July 30, 2012.

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, whether or not the recipient chooses to accept delivery. On July 26, 2012 (five days after the documents were mailed) the Tenant was still living at the rental unit. Despite being deemed served with the Notice of Hearing documents, the Tenant did not sign into the teleconference and the Hearing proceeded in his absence.

The Tenant moved out of the rental unit on July 29, 2012, and the Landlord has taken back possession of the rental unit. Therefore the Landlord's application for an Order of Possession is dismissed.

Issues to be Decided

- 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:

Monthly rent was \$935.00, due the first day of each month. The Tenant paid a security deposit in the amount of \$407.50 on April 28, 2005.

The Tenant did not pay rent for July when it was due. On July 3, 2012, the Landlord's agent 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 Landlord's agent testified that the Tenant has not paid any of the outstanding rent.

The Landlord's agent testified that the Tenant also owes the Landlord \$75.00 for three late fees from previous months. The Landlord provided a copy of the tenancy agreement in evidence which provides for this fee.

The Landlord's agent asked to apply the security deposit and accrued interest towards the Landlord's monetary award.

Analysis

I accept that the Landlord's agent's undisputed testimony that the Tenant did not pay rent for the month of July and that the Tenant was late paying rent for three months. Therefore, I find that the Landlord has established a monetary award in the amount of **\$1,010.00** as claimed.

Pursuant to Section 72(2)(b) of the Act, the Landlord may apply the security deposit and interest towards partial satisfaction of the Landlord's monetary claim. Interest in the amount of \$14.43 has accrued on the 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, calculated as follows:

Unpaid rent and late fees	\$1,010.00
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$1,060.00
Less security deposit and interest	<u>- \$421.93</u>
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$638.07

Conclusion

The Landlord's application for an Order of Possession is dismissed as the Tenant has moved out of the rental unit.

I hereby provide the Landlord a Monetary Order in the amount of **\$638.07** 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: August 27, 2012.

Residential Tenancy Branch