



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 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 the Notice of Hearing documents were mailed to the Tenant, via registered mail, to the rental unit on August 16, 2012. The Landlord provided a copy of the registered mail receipt and tracking numbers in evidence.

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.

Preliminary Matter

During the course of the Hearing the Landlord's agent withdrew the Landlord's application to set off the security deposit against the Landlord's monetary award. Therefore, the security deposit remains available on application by either party, in accordance with the provisions of the Act.

Issues to be Decided

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to a Monetary Order for unpaid rent and loss of revenue?

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 is a term lease which began on October 28, 2011, with an end date of October 31, 2012.

Monthly rent is \$1,380.00, due the first day of each month. The Tenant paid a security deposit in the amount of \$690.00 on October 26, 2011.

On July 10, 2010, the Landlord's agent served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by posting the Notice on the Tenant's door at the rental unit. A copy of the Notice was provided in evidence. The Notice indicates that the Tenant owes \$1,380.00 in unpaid rent that was due on July 1, 2012.

The Landlord's agent testified that the Tenant has paid some of the money due to the Landlord, but the Landlord did not reinstate the tenancy, and provided the Tenant with receipts for "use and occupancy only". The Landlord's agent requested a monetary award, calculated as follows:

Date	Amount due	Amount paid	Balance owed
July 1, 2012	\$1,380.00		\$1,380.00
July 12, 2012		\$200.00	\$1,180.00
July 27, 2012		\$200.00	\$980.00
August 1, 2012	\$1,380.00		\$2,360.00
August 3, 2012		\$870.00	\$1,490.00
August 22, 2012		\$100.00	\$1,390.00
September 1, 2012	\$1,380.00		\$2,770.00
September 7, 2012		\$510.00	\$2,260.00
September 10, 2012		\$870.00	\$1,390.00

The Landlord's agent stated that the Tenant is still living in the rental unit. He testified that the Tenant has not served the Landlord with an Application for Dispute Resolution disputing the Notice.

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 July 10, 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. I accept the Landlord's agent's undisputed testimony that 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 July 23, 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 find that the Landlord's agent has established a monetary claim for loss of revenue in the total amount of **\$1,390.00**.

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.

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 **\$1,440.00** 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.

The security deposit in the amount of **\$690.00** remains available on application by either party, in accordance with the provisions of the Act.

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: September 18, 2012.

Residential Tenancy Branch