



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 Landlords' application for an Order of Possession; a Monetary Order for unpaid rent, unpaid utilities and loss of revenue; compensation for damage or loss under the Act, regulation or tenancy agreement; to retain the security deposit in partial satisfaction of their monetary award; and to recover the cost of the filing fee from the Tenant.

The Landlord gave affirmed testimony at the Hearing.

The Landlord testified that the Notice of Hearing documents were mailed to the Tenant, via registered mail, to the rental unit on August 29, 2012. The Landlord provided the tracking numbers. The Landlord testified that the documents were returned to him, unclaimed. The Canada Post tracking information indicates that two Notices were left for the Tenant indicating where the documents could be picked up.

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. 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 gave the following testimony and documentary evidence:

A copy of the tenancy agreement was provided in evidence. Monthly rent is \$1,150.00, due the first day of each month. Rent does not include utilities. The Tenant paid a security deposit in the amount of \$575.00 on April 20, 2012.

On August 15, 2012, the Landlords 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 Landlords provided a proof of service document which is signed by a witness.

The Landlord stated that the Tenant has not paid any of the outstanding rent or utilities owed and that he remains in the rental unit. The Landlords provided copies of utility bills, which he testified were paid by the Landlords. The Landlord stated that the strata corporation has levied two \$200.00 fines on the Landlords because of the Tenant violating the noise and nonsmoking bylaw. The Landlord testified that he has paid the two fines and that he seeks to recover the cost of those fines from the Tenant. The Landlord stated that the Tenant was provided with a copy of the Strata bylaws at the beginning of the tenancy.

The Landlord stated that he seeks a monetary award, calculated as follows:

| | |
|-------------------------------------|-----------------|
| Unpaid rent for August, 2012 | \$1,150.00 |
| Loss of revenue for September, 2012 | \$1,150.00 |
| Strata fines | \$400.00 |
| Unpaid utility bills | <u>\$345.69</u> |
| TOTAL | \$3,045.69 |

Analysis

I accept that the Landlords served the Tenant with the Notice to End Tenancy by posting the Notice on the Tenant's door on August 15, 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 ended on August 28, 2012. I find that the Landlords are 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 testimony, I find that the Landlords are entitled to a monetary award for unpaid rent in the amount of \$1,150.00 and loss of revenue in the amount of \$1,150.00 for the month of September, 2012.

Based on the Landlord's undisputed testimony, I find that the Landlords are also entitled to recover the cost of the strata fines and unpaid utilities from the Tenant, in the total amount of \$745.69.

Pursuant to Section 72(2)(b) of the Act, the Landlords may apply the security deposit towards partial satisfaction of the Landlords' monetary award.

The Landlords have been successful in their application and I find that they are entitled to recover the cost of the \$50.00 filing fee from the Tenant.

I hereby provide the Landlords a Monetary Order, calculated as follows:

| | |
|--|-------------------|
| Unpaid rent for August, 2012 | \$1,150.00 |
| Recovery of strata fines and unpaid utilities | \$745.69 |
| Recovery of the filing fee | \$50.00 |
| Subtotal | \$3,095.69 |
| Less security deposit | - \$575.00 |
| TOTAL AMOUNT DUE TO THE LANDLORDS AFTER SET-OFF | \$2,520.69 |

Conclusion

I hereby provide the Landlords an Order of Possession **effective 2 days after service of the Order upon the Tenant**. This Order must be served on the Tenant and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I hereby provide the Landlords a Monetary Order in the amount of **\$2,520.69** 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: September 28, 2012.

Residential Tenancy Branch