



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR; MNR; 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 Tenants.

The Landlord's agent and the male Tenant gave affirmed testimony at the Hearing.

The Landlord's agent testified that the Notice of Hearing documents were mailed to each of the Tenants, via registered mail, to the rental unit on September 20, 2012. The Landlord provided the receipts and tracking numbers for the registered documents. The Landlord's agent stated that copies of the Landlord's documentary evidence were included in the registered packages.

The male Tenant acknowledged that he received the Notice of Hearing packages and the Landlord's evidence. I am satisfied that both of the Tenants were duly served with the Notice of Hearing documents by registered mail.

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 tenancy with the male Tenant began on February 1, 2006. The male Tenant entered into a new tenancy agreement with the Landlord on October 1, 2008. The female Tenant was added to the tenancy agreement by mutual agreement signed November 20, 2009. Copies of the tenancy agreements and the mutual agreement were provided in evidence. Monthly rent is currently \$725.00, due the first day of each month. The male Tenant paid a security deposit in the amount of \$310.00 on January 30, 2006.

On September 4, 2012, the Landlord's agent served the Tenants with a 10 Day Notice to End Tenancy for Unpaid Rent for August and September, 2012, by posting the Notice on the Tenants' door at the rental unit.

The Tenant acknowledged that he has not paid rent for the months of August, September or October, 2012. He stated that he was hopeful that he could work out a payment schedule with the Landlord to clear the debt.

The Landlord seeks a monetary award, calculated as follows:

Unpaid rent for August and September, 2012	\$1,450.00
NSF fee, pursuant to the tenancy agreement	\$25.00
Loss of revenue for October, 2012	<u>\$725.00</u>
TOTAL	\$2,200.00

Analysis

I accept that the Landlord served the Tenants with the Notice to End Tenancy dated September 4, 2012, by posting the Notice on the Tenants' door on September 4, 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 Tenants did not pay the outstanding rent, or file for dispute resolution, within 5 days of receiving the documents. Therefore, pursuant to Section 46(5) of the Act, the Tenants are conclusively presumed to have accepted that the tenancy ended on September 17, 2012. I find that the Landlord is entitled to an Order of Possession **two days after service of the Order upon the Tenants**.

Based on the testimony of both parties, I find that the Landlord's agent has established a monetary award as claimed in the Landlord's Application.

Pursuant to Section 72(2)(b) of the Act, the Landlord may apply the security deposit and accrued interest towards partial satisfaction of the Landlord's monetary award. Interest in the amount of \$10.85 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.

The Landlord's copy of this Decision is accompanied by a Monetary Order, calculated as follows:

Landlord's monetary award	\$2,200.00
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$2,250.00
Less security deposit and interest	<u>- \$320.85</u>
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$1,929.15

Conclusion

The Landlord is provided an Order of Possession **effective 2 days after service of the Order upon the Tenants**. This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The Landlord is provided a Monetary Order in the amount of **\$1,929.15** for service upon the Tenants. 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: October 23, 2012.

Residential Tenancy Branch

