



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 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 parties gave affirmed testimony at the Hearing.

The Landlord's agent testified that the Notice of Hearing documents and copies of the Landlord's documentary evidence were mailed to each of the Tenants, via registered mail, to the rental unit on September 21, 2012. The Landlord provided copies of the receipts and tracking numbers in evidence. The Tenant acknowledged receipt of the documents.

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:

The Landlord provided a copy of the tenancy agreement in evidence. Monthly rent is currently \$865.00, due the first day of each month. The Tenants paid a security deposit in the amount of \$430.00 on August 1, 2010.

On September 10, 2012, the Landlord's agent served the Tenant FR with a 10 Day Notice to End Tenancy for Unpaid Rent, by handing the document to the Tenant at the Landlord's office. The Landlord provided a copy of the Notice to End Tenancy in evidence. The Tenants have not disputed the Notice to End Tenancy.

The Landlord's agent testified that the Tenants are in arrears of rent for the month of August, 2012, in the amount of \$840.00. The Landlord's agent stated that no rent has been paid for September or October, 2012.

The Tenant agreed with the Landlord's agent's submissions and stated that he has had a series of bad luck with respect to unemployment, injury and illness.

Analysis

I accept that the Landlord's agent served the Tenants with the Notice to End Tenancy on September 10, 2012. The Tenants did not pay the arrears, 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 20, 2012. I find that the Tenants are overholding and that the Landlord is entitled to an Order of Possession effective **2 days after service upon the Tenants**.

Based on the testimony of both parties, I find that the Landlord has established a monetary claim for unpaid rent for the months of August and September, 2012, and loss of revenue for the month of October, 2012.

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

The Landlord has been successful in its application and I find that it is entitled to recover the cost of the filing fee from the Tenants.

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

Unpaid rent for August, 2012	\$840.00
Unpaid rent for September, 2012	\$865.00
Loss of revenue for October, 2012	\$865.00
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$1,755.00
Less security deposit	<u>- \$430.00</u>
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$1,325.00

Conclusion

I hereby provide the Landlord 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.

I hereby provide the Landlord a Monetary Order in the amount of \$1,325.00 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 25, 2012.

Residential Tenancy Branch