

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 her monetary claim; and to recover the cost of the filing fee from the Tenants.

The Landlord and her agent 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 November 19, 2012. The Landlord provided the tracking numbers for the registered documents in evidence.

The Landlord's Application for Dispute Resolution was amended on December 7, 2012. The Landlord's agent testified that the amended Application and copies of the Landlord's evidence were sent to each of the Tenants, via registered mail, on December 8, 2012. The Landlord's agent stated that she has searched the Canada Post tracking system and the Tenants have not yet picked up the packages that were mailed on December 8, 2012. The tracking numbers for the packages were provided.

Based on the affirmed testimony of the Landlord's agent and the documentary evidence provided by the Landlord, I am satisfied that both of the Tenants were duly served with the Notice of Hearing documents and the Landlord's amended Application 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 Tenants did not sign into the teleconference and the Hearing proceeded in their 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 and her agent gave the following testimony and evidence:

Monthly rent is \$1,400.00, due the first day of each month. The Tenants paid a security deposit in the amount of \$700.00 on or about March 20, 2012.

On November 6, 2012, the Landlord's agent served the Tenants with a 10 Day Notice to End Tenancy for Unpaid Rent, by posting the Notice on the Tenants' door at the rental unit. The Landlord's son witnessed this.

The Landlord's agent testified that the Tenants have not paid any of the outstanding rent for November or for December, 2012, and that they remain in the rental unit.

Analysis

I accept that the Landlord served the Tenants with the Notice to End Tenancy by posting the Notice on the Tenant's door on November 6, 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 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 November 19, 2012. I find that the Landlord is entitled to an Order of Possession effective 2 days after service of the Order upon the Tenants.

Based on the Landlord's agent's undisputed testimony, I find that the Landlord is entitled to a monetary award for unpaid rent and loss of revenue in the total amount of \$2,800.00

Pursuant to Section 72(2)(b) of the Act, the Landlord may apply the security deposit towards partial satisfaction of the Landlord's monetary award. No interest has accrued on the security deposit.

The Landlord has been successful in her application and I find that she is entitled to recover the cost of the \$50.00 filing fee from the Tenants.

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

Unpaid rent and loss of revenue (November and December, 2012)	\$2,800.00
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$2,850.00
Less security deposit	<u>- \$700.00</u>
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$2,150.00

Conclusion

I hereby provide the Landlord with 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 with a Monetary Order in the amount of **\$2,150.00** 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: December 18, 2012.

Residential Tenancy Branch