

DECISION

Dispute Codes: OPR; MNR; FF

Introduction

This is the Landlords' application for an Order of Possession; a Monetary Order for unpaid rent and loss of revenue; and to recover the cost of the filing fee from the Tenant.

The Landlords' agent gave affirmed testimony at the Hearing.

The Landlords' agent testified that the Notice of Hearing documents and copies of the Landlords' documentary evidence were mailed to the Tenant, via registered mail, to the rental unit on November 22, 2012. The Landlord provided a copy of the registered mail receipt in evidence. The Landlords' agent stated that she has checked the Canada Post tracking system and the Tenant has not picked up the documents.

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. Failure to accept delivery of duly served documents does not change the service provisions of the Act. Despite being duly served with the Notice of Hearing documents, the Tenant did not sign into the teleconference and the Hearing proceeded in her absence.

Issues to be Decided

- Are the Landlords entitled to an Order of Possession?
- Are the Landlords entitled to a monetary award for unpaid November rent and loss of revenue for the month of December, 2012?

Background and Evidence

The Landlords' agent gave the following testimony and documentary evidence:

This tenancy began on June 1, 2011. Monthly rent is \$1,125.00, due the first day of each month. The Tenant paid a security deposit in the amount of \$562.50 at the beginning of the tenancy. The Landlord's agent asked to apply the security desposit in partial satisfaction of the Landlords' monetary award.

On November 2, 2012, at 4:30 p.m., the Landlord's agent 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 in evidence, which is signed by a witness.

The Landlords' agent testified that the Tenant has not paid any of the arrears and is still living in the rental unit.

Analysis

I accept that the Landlords' agent served the Tenant with the Notice to End Tenancy by posting the Notice on the Tenant's door on November 2, 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 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 November 15, 2012. I find that the Tenant is overholding and that the Landlords are entitled to an Order of Possession effective 2 days after service of the Order upon the Tenant. I further find that the Landlords are entitled to a monetary award for unpaid rent and loss of revenue because of the Tenant's overholding.

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

The Landlords have been successful in their application and is entitled to recover the cost of the \$50.00 filing fee from the Tenant.

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

Unpaid rent and loss of revenue	\$2,250.00
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$2,300.00
Less security deposit	<u>- \$562.50</u>
TOTAL AMOUNT DUE TO THE LANDLORDS AFTER SET-OFF	\$1,737.50

Conclusion

I hereby provide the Landlords with 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 Landlords with a Monetary Order in the amount of **\$1,737.50** 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: December 27, 2012.

Residential Tenancy Branch