



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

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 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 26, 2013. The Landlord stated that the Landlord and Tenant share a mailbox and that she saw a Canada Post notice to the Tenant telling where to pick up the documents, so she posted it to the Tenant's door. A final Notice to the Tenant from Canada post came to the rental property and the Landlord posted it to the Tenant's door with a witness present. Several days later the Notice of Hearing documents were returned to the Landlord, unclaimed. The Landlord provided the unopened registered mail envelope in evidence.

Based on the Landlord's affirmed testimony and documentary evidence, I am satisfied that the Tenant was sufficiently served pursuant to the provisions of Sections 71(2)(b) and 90(a) of the Act, on August 31, 2013. Despite being 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

- 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 evidence:

The Tenant provided a security deposit in the amount of \$325.00 and moved into the rental unit on July 15, 2013. Monthly rent is \$650.00, due the 15th day of each month.

The Tenant did not pay rent for July 15 – August 14, 2013 and therefore the Landlord issued a Notice to End Tenancy for Unpaid rent and posted it to the Tenant's door on July 21, 2013.

The Tenant has not moved out of the rental unit and has not paid any rent since she moved in.

The Landlord seeks a monetary award for unpaid rent that was due on July 15, 2013, and loss of revenue for August 15 – September 14 and September 15 – October 14, 2013, in the total amount of \$1,950.00..

Analysis

I accept that the Landlord served the Tenant with the Notice to End Tenancy by posting the Notice on the Tenant's door on July 21, 2013. 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 3, 2013. I find that the Landlord is entitled to an Order of Possession and a Monetary Order for unpaid rent and loss of revenue.

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

The Landlord has established a monetary claim as follows:

Unpaid rent and loss of revenue	\$1,950.00
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$2,000.00
Less security deposit	<u>- \$350.00</u>
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$1,650.00

Conclusion

I hereby provide the Landlord 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 Landlord with a Monetary Order in the amount of **\$1,650.00** 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: October 02, 2013

Residential Tenancy Branch

