



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR; MNR; MNDC, FF

Introduction

This is the Landlord's 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 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 December 3, 2013. The Landlord provided the original registered mail receipt for the registered 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. Despite being served with the Notice of Hearing documents, the Tenant did not sign into the teleconference and the Hearing proceeded in his 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:

Monthly rent is \$1,350.00, due the first day of each month. The Tenant paid a security deposit in the amount of \$625.00 approximately 4 to 5 months ago.

On November 24, 2013, the Landlord served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent, by handing the Notice to the Tenant at the rental unit. Service of the Notice was witnessed by one of the Landlord's other tenants.

The Landlord testified that the Tenant has not paid any of the outstanding rent for November, 2013. The Landlord requested a monetary order for unpaid rent and loss of revenue, as follows:

Unpaid rent for November and December, 2013	\$2,700.00
Loss of revenue for January, 2014	<u>\$1,350.00</u>
TOTAL AMOUNT CLAIMED	\$4,050.00

The Landlord asked to apply the security deposit towards partial satisfaction of his monetary award.

The Tenant has not filed an Application for Dispute Resolution disputing the Notice to End Tenancy.

Analysis

I accept that the Landlord's affirmed testimony that he served the Tenant with the Notice to End Tenancy on November 24, 2013, and that 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 December 4, 2013. I find that the Landlord is entitled to an Order of Possession and a monetary award for unpaid rent in the amount of \$2,700.00.

I find that the Landlord's application for loss of revenue for the month of January, 2014, is premature as the Landlord may be able to re-rent the rental unit for January, or for a portion of January, 2014. This portion of his application is dismissed with leave to re-apply.

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 his application and I find that he is entitled to recover the cost of the \$50.00 filing fee from the Tenant.

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

Unpaid rent	\$2,700.00
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$2,750.00
Less security deposit	<u>- \$625.00</u>
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$2,125.00

Conclusion

The Landlord's application for loss of revenue for the month of January is dismissed with leave to re-apply.

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 **\$2,125.00** 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: December 11, 2013

Residential Tenancy Branch

