



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR; OPB; 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 his 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 and copies of his documentary evidence were mailed to the Tenant, via registered mail, to the rental unit on December 5, 2013. The Landlord provided the registered mail receipt and tracking numbers in evidence. The Landlord testified that the registered mail package was returned to him unclaimed on January 8, 2014.

Based on the Landlord's affirmed testimony and documentary evidence, I am satisfied that the Tenant was duly served with the Notice of Hearing documents by registered mail pursuant to the provisions of Section 89(1)(c) of the Act. Service in this manner is deemed to be effected 5 days after mailing the documents. 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.

Preliminary Matters

The Landlord provided documentary evidence indicating that he was seeking to recover the cost of developing photographs, service fees, the cost of re-renting the rental unit, loss of revenue for February, and unknown damages. I explained to the Landlord that he had not formally amended his initial application and therefore these requests would not be considered. I further explained that the Act does not have a provision for recovery of the cost of preparing for an Application (service fees, photographs, photocopies, etc.) and that it is premature to request loss of revenue for February, 2014, and that the Landlord is at liberty to file another Application for Dispute Resolution .

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 documentary evidence:

A copy of the tenancy agreement was provided in evidence. This tenancy began on September 1, 2013. Monthly rent is \$1,100.00, due the first day of each month. The Tenant paid a security deposit in the amount of \$550.00 at the beginning of the tenancy.

On November 4, 2013, the Landlord served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by posting the Notice on the Tenant's door at the rental unit. A copy of the Notice

The Landlord testified that the Tenant has not paid any of the outstanding rent, or any rent for the months of December, 2013 and January, 2014.

Analysis

I accept the Landlord's undisputed affirmed testimony in its entirety. I find that the Landlord served the Tenant with the Notice by posting it to the Tenant's door on November 4, 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, in this case November 7, 2013. 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 November 17, 2013. Therefore, I find that the Landlord is entitled to an Order of Possession and a monetary award 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 his 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 for November	\$1,100.00
Loss of revenue for December and January	\$2,200.00
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$3,350.00
Less security deposit	- \$550.00
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$2,800.00

Conclusion

I hereby grant the Landlord 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 grant the Landlord a Monetary Order in the amount of **\$2,800.00** 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: January 09, 2014

Residential Tenancy Branch

