



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OPR, MNR; MNSD; MNDC; FF

Introduction

This is the Landlord's application for an Order of Possession and a Monetary Order for unpaid rent; for compensation for loss of revenue; to apply the security deposit towards his monetary award; and to recover the cost of the filing fee from the Tenant.

Both parties attended the Hearing and gave affirmed testimony.

It was determined that the Landlord served the Tenant with the Notice of Hearing documents and copies of his documentary evidence on December 14, 2013, by handing the documents to the Tenant.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession and Monetary Order?

Background and Evidence

This tenancy began in April, 2004. Monthly rent is currently \$720.00, due on the first day of each month. The Landlord submitted that the Tenant paid a security deposit in the amount of \$275.00 but he could not recall on what day it was paid. For the purposes of calculating accrued interest, the parties agreed that the security deposit was paid on April 1, 2004.

On December 6, 2013, the Landlord served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by hand delivering the Notice to the Tenant. A copy of the Notice was provided in evidence. The Tenant did not file an application to dispute the Notice.

The Landlord testified that the Tenant has not paid any rent for the months of November and December, 2013, or January, 2014. The Tenant agreed that no rent has been paid for those three months.

The Landlord asked that the Order of Possession be effective January 25, 2014.

Analysis

Based on the testimony of both parties, I find that the Tenant received the Notice on December 6, 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 December 16, 2013. I find that the Landlord is entitled to an Order of Possession and a monetary award for unpaid rent and loss of revenue, in the total amount of \$2,160.00 (\$720.00 x three months).

Pursuant to Section 72(2)(b) of the Act, the Landlord may apply the security deposit and accrued interest towards partial satisfaction of his monetary award. Interest has accrued on the security deposit in the amount of \$9.74.

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 a Monetary Order, calculated as follows:

Un paid rent and loss of revenue	\$2,160.00
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$2,210.00
Less security deposit and accrued interest	<u>- \$284.74</u>
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$1,925.26

Conclusion

I hereby grant the Landlord an Order of Possession for service upon the Tenant, effective **1:00 p.m., January 25, 2014**. 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 **\$1,925.26** 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

