



Dispute Resolution Services

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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 his monetary award; and to recover the cost of the filing fee from the Tenants.

The Landlord gave affirmed testimony at the Hearing.

The Landlord testified that he served each of the Tenants with the Notice of Hearing documents at the rental unit on November 23, 2013, at 3:00 p.m. The Landlord provided a witness statement in evidence.

Based on the Landlord's affirmed testimony documentary evidence, I am satisfied that both of the Tenants were duly served with the Notice of Hearing documents. Despite being served with the Notice of Hearing documents, the Tenants did not sign into the teleconference and the Hearing proceeded in their 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 \$\$1,050.00, due the first day of each month. The Tenants paid a security deposit in the amount of \$500.00 at the beginning of the tenancy.

On October 2, 2013, the Landlord agent served the Tenants with a 10 Day Notice to End Tenancy for Unpaid Rent, by posting the Notice on the Tenants' door at the rental unit. The Tenants have not paid any rent since rent was paid for June, 2013. The Tenants remain living in the rental unit.

Analysis

Based on the affirmed testimony of the Landlord and the documentary evidence provided, I accept that the Landlord served the Tenants with the Notice to End Tenancy by posting the Notice on the Tenants' door on October 2, 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 October 5, 2013. The Tenants 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 Tenants are conclusively presumed to have accepted that the tenancy ended on October 15, 2013. The Tenants are overholding and I find that the Landlord is entitled to an Order of Possession and a monetary award for unpaid rent and loss of rent, calculated as follows:

Unpaid rent for July, 2013	\$1,050.00
Unpaid rent for August, 2013	\$1,050.00
Unpaid rent for September, 2013	\$1,050.00
Unpaid rent for October, 2013	\$1,050.00
Loss of revenue for November, 2013	\$1,050.00
Loss of revenue for December, 2013	<u>\$1,050.00</u>
TOTAL	\$6,300.00

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 Tenants.

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

unpaid rent and loss of revenue	\$6,300.00
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$6,350.00
Less security deposit	<u>- \$500.00</u>
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$5,850.00

Conclusion

I hereby grant the Landlord an Order of Possession **effective 2 days after service of the Order upon the Tenants**. 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 **\$5,850.00** for service upon the Tenants. 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 15, 2014

Residential Tenancy Branch

