



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Mainstreet Equity Corp.
and [tenant name suppressed to protect privacy]

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 its monetary claim; and to recover the cost of the filing fee from the Tenant.

The Landlord's agent gave affirmed testimony at the Hearing.

The Landlord's agent testified that the Notice of Hearing documents and copies of the Landlord's documentary evidence were mailed to the Tenant, via registered mail, to the rental unit on December 23, 2013. The Landlord provided a copy of the receipt and tracking numbers in evidence.

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.

Preliminary Matter

During the course of the Hearing, the Landlord's agent stated that the Tenant has paid a portion of the rent owed to the Landlord, but not all of it. She stated that the Landlord did not reinstate the tenancy because there was still outstanding money owed. However, the Landlord's agent said that the Landlord would consider reinstating the tenancy if the Tenant paid the total amount outstanding. The Landlord's agent withdrew the Landlord's application to apply the security deposit towards outstanding rent, but wished to continue with the application for an Order of Possession and a Monetary Order.

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's agent gave the following testimony:

A copy of the tenancy agreement and Notices of Rent Increase were provided in evidence. This tenancy began on March 3, 2008. Monthly rent is currently \$843.54, due the first day of each month. The Tenant paid a security deposit in the amount of \$364.00 at the beginning of the tenancy.

On December 5, 2013, the Landlord's agent 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 and a proof of service document were provided in evidence. The proof of service document is signed by a witness.

The Landlord's agent stated that as of the date of the Notice, the Tenant was in arrears of rent for November, 2013, in the amount of \$40.86 and for December, 2013, in the amount of \$843.54.

The Landlord's agent testified that the Tenant has paid some of the money due to the Landlord. The Landlord seeks a monetary award, calculated as follows:

Unpaid rent as at December 5, 2013	\$892.40
Late fee for December, 2013	\$25.00
Loss of revenue for January, 2014	\$892.40
Late fee for January, 2014	\$25.00
Loss of revenue for February, 2014	\$892.40
Late fee for February, 2014	\$25.00
Less amount paid January 2, 2014	-\$500.00
Less amount paid January 16, 2014	-\$800.00
Less amount paid January 24, 2014	-\$350.00
Less amount paid January 31, 2014	<u>-\$450.00</u>
TOTAL AMOUNT CLAIMED	\$652.20

Analysis

I accept the undisputed testimony that the Landlord served the Tenant with the Notice to End Tenancy by posting the Notice on the Tenant's door on December 5, 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 December 18, 2013. I find that the Landlord is entitled to an Order of Possession.

I find that the Landlord is entitled to unpaid rent and loss of revenue in the total amount of \$577.20. The tenancy agreement has a clause allowing for late fees in the amount of \$25.00, and I allow these fees for December's rent. However, these fees are for late rent, and therefore the Landlord's claim for late fees for loss of revenue is dismissed.

The Landlord has been successful in its application and I find that it 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:

Balance owing	\$577.20
Late fee for December's rent	\$25.00
Recovery of the filing fee	<u>\$50.00</u>
TOTAL AMOUNT DUE TO THE LANDLORD	\$652.20

The security deposit and accrued interest remain available to either party, to be administered in accordance with the provisions of the Act.

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 **\$652.20** against the Tenant. This Order must be served on the Tenant and may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an Order of that Court.

If the Tenant does not pay the Landlord \$652.20 forthwith, the Landlord may enforce the enclosed Order of Possession and Monetary Order.

The security deposit and accrued interest remain available to either party, to be administered in accordance with the provisions of the Act.

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: February 05, 2014

Residential Tenancy Branch

