



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Bristol Estates
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 and pet damage 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 were mailed to the Tenant, via registered mail, to the rental unit on October 18, 2014. The Landlord provided the tracking numbers for the registered documents.

Based on the affirmed testimony of the Landlord's agent, 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 her absence. The Hearing remained open for 15 minutes.

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 and evidence:

Monthly rent is \$925.00, due on the first day of each month. The Tenant paid a security deposit in the amount of \$462.50 and a pet damage deposit in the amount of \$462.50 on September 27, 2013.

On October 2, 2014, the Landlord's agent served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent, by posting the Notice on the Tenant's door at the rental unit. A copy of the Notice was provided in evidence.

The Landlord's agent testified that the Tenant has not paid any of the rental arrears. The Landlord seeks a monetary award, calculated as follows

Unpaid rent for October, 2014	\$925.00
Loss of revenue for November, 2014	\$925.00
Loss of revenue for November, 2014	\$925.00
Late fees for late rent (3 x \$25.00)	<u>\$75.00</u>
TOTAL AMOUNT CLAIMED	\$2,850.00

Analysis

I accept that the Landlord served the Tenant with the Notice to End Tenancy by posting the Notice on the Tenant's door on October 2, 2014. 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 October 15, 2014. I find that the Tenant is overholding and that the Landlord is entitled to an Order of Possession effective 2 days after service of the Order upon the Tenant.

The Landlord seeks compensation for loss of revenue for the month of December, 2014. I find that this portion of their application is premature and I dismiss it with leave to reapply.

I find that the Landlord is entitled to unpaid rent for the month of October and loss of revenue for the month of November, 2014. Based on a term of the tenancy agreement, I also find that the Landlord is entitled to late fees for the month of October, 2014, in the amount of \$25.00. The late fee is a fee for late rent, and I find that the tenancy ended on October 15, 2014. Therefore, I decline to award late fees for the months of November and December, 2014.

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.

The Landlord has been successful in its application and I find that it is entitled to recover the cost of the filing fee from the Tenant.

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

Un paid rent and loss of revenue (October and November, 2014)	\$1,850.00
Late fee for unpaid rent for October, 2014)	\$25.00
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$1,925.00
Less security deposit and pet damage deposit	<u>- \$925.00</u>
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$1,000.00

Conclusion

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 **\$1,000.00** 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: November 27, 2014

Residential Tenancy Branch

