



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Bourbon Hotel
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPR; OPC; MNR; FF

Introduction

This is the Landlord's application for an Order of Possession; a Monetary Order for unpaid rent and loss of revenue; and to recover the cost of the filing fee from the Tenant.

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

The Landlord's agents 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. The Landlord provided the registered mail receipt and tracking numbers in evidence.

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.

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 agents gave the following testimony:

Monthly rent is currently \$442.60.00, due on the first day of each month. The Tenant paid a security deposit in the amount of \$286.00 on May 1, 2004. The Landlord seeks to apply the security deposit, together with accrued interest, towards its monetary award.

The Tenant has not paid rent for May, 2015, or since. She remains in the rental unit. The Landlord posted a 10 Day Notice to End Tenancy and a One Month Notice to End

Tenancy for Cause on the Tenant's door on May 2, 2015. Copies of the Notices were provided in evidence.

The Landlord's agents requested a monetary award for unpaid rent and loss of revenue, as follows:

Unpaid rent for May, 2015	\$442.60
Loss of revenue for June, 2015	\$442.60
Loss of revenue for July, 2015	\$442.60
Loss of revenue for August, 2015	\$442.60
Loss of revenue for September, 2015	<u>\$442.60</u>
TOTAL AMOUNT	\$2,213.00

Analysis

I accept that the Landlord served the Tenant with the 10 Day Notice to End Tenancy by posting the Notice on the Tenant's door on May 2, 2015. 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 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 May 12, 2015. I find that the Tenant is overholding and that the Landlord is entitled to an Order of Possession and monetary award as claimed.

Pursuant to Section 72(2)(b) of the Act, the Landlord may apply the security deposit and accrued interest towards partial satisfaction of the Landlord's monetary claim. Interest in the amount of \$2.87 has accrued on the security deposit.

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:

Unpaid rent and loss of revenue	\$2,213.00
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$2,263.00
Less security deposit and accrued interest	<u>- \$288.87</u>
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$1,974.13

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 **\$1,974.13** 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: September 16, 2015

Residential Tenancy Branch

