



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an application by the landlord to obtain an order of possession for unpaid rent, a monetary order for unpaid rent, to keep all or part of the security deposit and recovery of the filing fee. The landlord participated in the conference call hearing but the tenant did not. The landlord presented evidence that the tenant was served with the application for dispute resolution. I found that the tenant had been properly served with notice of the landlord's claim and the date and time of the hearing and the hearing proceeded in their absence.

Issues to be Decided

Is the landlord entitled to any of the above under the Act.

Summary of Background and Evidence

This fixed term tenancy started on August 15, 2010 with rent of \$1150.00, the tenant paid a security deposit of \$575.00. On October 4, 2010 the landlord served the tenant with a Notice to End Tenancy for Unpaid Rent.

The landlord testified that the tenant owes the following in unpaid rent: October 2010, \$1150.00, November 2010, \$1150.00 for a total of \$2300.00 in unpaid rent. The tenant also owes \$50.00 for a fine that was levied against the tenant by the strata for repeatedly smoking in the common area. The landlord is requesting a monetary order in the amount of \$2350.00

The landlord verified in the hearing that the 10 Day Notice to End Tenancy was served by sliding it under the door and per the Act this is not a recognized method of service. However as the tenant abandoned the rental unit in mid October the landlord no longer requires and order of possession.

Analysis

Based on the documentary evidence and testimony I find that the tenant was not properly served with a 10 day notice to end tenancy for non-payment of rent however

the landlord no longer requires an order of possession and the tenant has abandoned the rental unit.

Residential Tenancy Branch Policy Guideline 12 Service Provisions

3. SERVICE OF DOCUMENTS ON TENANT with respect to:

- An application by a landlord for an order of possession for the landlord.
- An application by a landlord for an order ending tenancy early.

There are only four methods of service that may be used with respect to these matters.⁴

Personal Service

- Where a landlord is personally serving a tenant, the landlord must serve by leaving a copy with the tenant, or by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant.

Registered Mail

- Where a landlord is serving a tenant by registered mail, the address for service must be where the tenant resides at the time of mailing.

Posting

- By attaching a copy to a door or other conspicuous place at the address at which the tenant resides.

An Arbitrator's Order Regarding Service⁵

- See sections 10 and 11 below for discussion of this subject.

As for the monetary order, I find that the landlord has established a claim for \$2350.00 in unpaid rent and fines. The landlord is also entitled to recovery of the \$50.00 filing fee.

Conclusion

I find that the landlord has established a claim for \$2350.00 in unpaid rent and fines. I order the landlord pursuant to s. 38(4) of the Act to keep the Tenant's \$575.00 security deposit in partial satisfaction of the claim and I grant the landlord a monetary order under section 67 for the balance due of \$1825.00. ($\$2300.00 + \$50.00 = \$2350.00 + \$50.00 = \$2400.00 - \$575.00 = \1825.00).



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Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$1825.00**.

If the amount is not paid by the tenant, the order may be filed in the Provincial (Small Claims) Court of British Columbia 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 22, 2010

Dispute Resolution Officer