



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR & FF

Introduction

A hearing was conducted by conference call in the presence of a representative of the applicant and in the absence of the respondents although duly served. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

I find that the Notice to End Tenancy was sufficiently served on the Tenants by posting on July 2, 2013.

The Residential Tenancy Act permits a party to serve another by mailing, by registered mail to where the other party resides. The Act provides that it is deemed received 5 days after mailing. The landlord testified that he mailed a copy of the Landlord's Application for Dispute Resolution/Notice of Hearing, by registered mail addressed to the respondents at the rental unit on July 11, 2013. The documents were subsequently returned. The Supreme Court of British Columbia has held that a party cannot avoid service by refusing to pick up their registered mail. I find that there was sufficient service on each of the respondents. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to an Order for Possession?
- b. Whether the landlord is entitled to A Monetary Order and if so how much?
- c. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence

The parties entered into a one year fixed term written tenancy agreement that provided that the tenancy would start on June 1, 2013 and end on May 31, 2014. The rent is \$1500 per month payable on the first day of each month. The tenants paid a security deposit of \$750 and a deposit for the FOBs in the sum of \$150.

The tenant(s) failed to pay the rent when due. At the time the Application for Dispute Resolution was filed the Tenants owed rent for July 2013. The rent for July was eventually paid and it was accepted by the landlord for “use and occupation only.” The rent for August has not been paid and the sum of \$1500 remains owing. The tenant(s) have remained in the rental unit.

Analysis

Analysis - Order of Possession:

I determined the landlord was entitled to an Order for Possession. There is outstanding rent. The Tenant(s) have not made an application to set aside the Notice to End Tenancy and the time to do so has expired. In such situations the Residential Tenancy Act provides the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit by that date. Accordingly, I granted the landlord an Order for Possession. At the request of the Landlord I set the effective date as August 31, 2013.

The tenants must be served with this Order as soon as possible. Should the tenants fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

Analysis - Monetary Order and Cost of Filing fee

I determined the tenants have failed to pay the rent for the month(s) of August 2013 and the sum of \$1500 remains outstanding. I determined the landlord has given sufficient

notice of their intention to claim for all of last month as provided in the Application for Dispute Resolution. **I granted the landlord a monetary order in the sum of \$1500 plus the sum of \$50 in respect of the filing fee for a total of \$1550.**

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court 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: August 16, 2013

Residential Tenancy Branch

