



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WEST 56 APARTMENTS

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 September 8, 2013.

The Residential Tenancy Act permits a party to serve another by mailing, by registered mail. The Act further provides that it is deemed received 5 days after mailing. I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on each of the Tenants by mailing, by registered mail to where the Tenants reside on September 20, 2013. The landlord testified the documents were returned as the Tenants failed to claim their registered post. The Supreme Court of British Columbia has held that a party cannot avoid service by refusing to pick up their registered mail. I determined there was sufficient service 5 days after the Application was mailed. 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 written tenancy agreement that provided that the tenancy would start on December 1, 2011. The present rent is \$1 125 per month payable on the first day of each month. The tenants paid a security deposit of \$562.50 at the start of the tenancy. A pet damage deposit has also been paid.

The tenant(s) failed to pay the rent for the months of September the sum of \$1145 remains outstanding including a \$20 late fee. The tenant(s) vacated the rental unit at the end of September without giving notice. However, the landlord has not been able to re-rent the rental unit because of damage caused by the Tenant and the landlord has lost rent revenue in the sum of \$1125 for October.

Analysis

Analysis - Order of Possession:

It is no longer necessary to consider the landlord's application for an Order for Possession as the tenants have vacated the rental unit and the landlord has regained possession.

Analysis - Monetary Order and Cost of Filing fee

I determined the tenants have failed to pay the rent for the month(s) of September the sum of \$1145 remains outstanding including a \$20 late fee. The tenant(s) vacated the rental unit at the end of September without giving notice. However, the landlord has not been able to re-rent the rental unit because of damage caused by the Tenant and the landlord has lost rent revenue in the sum of \$1125 for October. **I granted the landlord a monetary order in the sum of \$2270 plus the sum of \$50 in respect of the filing fee for a total of \$2320.**

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: October 22, 2013

Residential Tenancy Branch

