



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MDSD & FF

Introduction

A hearing was conducted by conference call in the presence of a representative of the applicant and in the absence of the respondent 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 Tenant by posting on November 3, 2013. The Residential Tenancy Act permits a party to serve another by mailing, by registered mail to where the other party resides. It further provides that it is deemed receive 5 days later. The landlord testified he served the Application for Dispute Resolution/Notice of Hearing by mailing by registered mail on December 3, 2013 to the residence. The documents were returned with the notation unclaimed. 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 of the Application for Dispute Resolution/Notice of Hearing. 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 retain all or a portion of the security deposit/pet deposit?
- d. 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 September 15, 2013. The rent is \$1059 per month payable in advance on the first day of each month. The tenant(s) failed to pay the rent for the months of November and December and the sum of \$2143 remains owing including a \$25 late fee.

The tenant's belongings remain in the rental unit although the tenant has not been seen for over two months.

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 on 2 days notice.

The tenant must be served with this Order as soon as possible. Should the tenant 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 tenant has failed to pay the rent for the month(s) of the months of November and December and the sum of \$2143 remains owing including a \$25 late fee. I granted the landlord a monetary order in the sum of \$2143 plus the sum of \$50 in respect of the filing fee for a total of \$2193.

Security Deposit

I determined the security deposit plus interest totals the sum of \$529.50. **I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$1663.50.**

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: January 14, 2014

Residential Tenancy Branch

