



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 one of the applicants 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 10 day Notice to End Tenancy was personally served on the Tenants on March 4, 2014. The Residential Tenancy Act permits a party to serve another by mailing the documents by registered mail to where the other party resides. The Act provides that the documents are deemed received 5 days after mailing.

The landlord testified that he mailed copies of the Application for Dispute Resolution/Notice of Hearing by registered mail on March 26, 2014 to each of the tenants addressed to the rental property and to the residence which they own (and where they moved to). The landlord testified that the tenants did not pick up the documents and they were returned. A search of the Canada Post tracking service confirms envelopes were mailed as testified and that a Notification card was left at the address the following day. The Supreme Court of British Columbia has held that a party cannot avoid service by refusing to pick up their registered mail. Based on the evidence before me I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on each of the respondents 5 days after mailing.

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 landlord testified the parties entered into an oral tenancy agreement which provided that the tenants would pay rent of \$4400 commencing June 1, 2012 and on the first day of each month thereafter. The parties were friends and business associates and a security deposit was not paid. The rental property was a farm property that included a house, a manufactured home and outbuildings. The tenants paid the rent of \$4400 per month for the period June 1, 2012 to August 1, 2013.

The tenants have failed to pay the rent for the period September 1, 2013 to March 31, 2014 and the sum of \$30,800 is outstanding (\$4400 x 7 months = \$30,800). The tenants vacated the rental property on April 1, 2014 and moved to their property in Delta which they own.

Analysis - Order of Possession:

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

Analysis - Monetary Order and Cost of Filing fee

I determined the tenant has failed to pay the rent for the month(s) of September 2013, October 2013, November 2013, December 2013, January 2014, February 2014 and March 2014 and the sum of \$30,800 remains outstanding. The jurisdiction of an Arbitrator is limited to \$25,000. The landlord stated he was abandoning any claim over \$25,000. **I granted the landlord a monetary order in the sum of \$25,000 plus the sum of \$100 in respect of the filing fee for a total of \$25,100.**

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: May 08, 2014

Residential Tenancy Branch

