



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MDSD & FF

Introduction

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. An Order for Possession for non-payment of rent?
- b. A monetary order in the sum of \$7000 for unpaid rent?
- c. An order to recover the cost of the filing fee?

A hearing was conducted by conference call in the presence 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 10 day Notice to End Tenancy was personally served on the Tenant on September 4, 2015. Further I find that the Application for Dispute Resolution/Notice of Hearing was served on the Tenant by mailing, by registered mail to where the tenant resides on October 13, 2015.

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 January 1, 2015. The rent is \$1500 per month payable in advance on the first day of each month. The tenant did not pay a security deposit.

At the time the Application was filed the tenant owed \$7000 in unpaid rent to the end of September. The tenant subsequently made a part payment of \$2500 leaving an unpaid balance of \$4500 to end the end of September 2015. The tenant has not paid the rent for October and November. The tenant(s) continues to reside in the rental unit.

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 September and October and the sum of \$4500 remains outstanding to the end of September. The landlord did not make a claim for October and November and as a result those claims cannot be included in this order. The landlord retains the right to file a new claim for unpaid rent for those months. I granted the landlord a monetary order in the sum of \$4500 plus the sum of \$100 in respect of the filing fee for a total of \$4600.

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.

Conclusion

I granted an Order for Possession on 2 days notice based on unpaid rent and a monetary order in the sum of \$4600 for unpaid rent to the end of September plus the cost of the filing fee. 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 18, 2015

Residential Tenancy Branch

