



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding VANCOUVER EVICTION SERVICES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: MNR OPR RR DRI MNDC MNSD FF

Introduction:

Both parties have an application but only the landlord attended the hearing. The landlord provided evidence that they had served the Application by posting it on the door and also by registered mail. However, the online information said there was a processing error and the landlord had signed for the registered mail's return. I find the landlord's Application is sufficiently served by posting it on the door to obtain an Order of Possession pursuant to section 88 but not to obtain a monetary order pursuant to section 89. The landlord's application pursuant to the *Residential Tenancy Act* (the Act) is for orders as follows:

- a) A monetary order pursuant to Sections 46 and 67 for unpaid rent;
- b) An Order of Possession pursuant to sections 46 and 55;
- c) An Order to retain the security deposit pursuant to Section 38; and
- d) An order to recover the filing fee pursuant to Section 72.

The tenant applied for orders as follows:

- e) To cancel a Notice to End Tenancy for unpaid rent;
- f) To find that he is entitled to one month free rent pursuant to a section 49 Notice to End Tenancy for landlord's use of the property.
- g) To declare a rent increase illegal and obtain a refund of overpayment pursuant to section 43.

Issue(s) to be Decided:

Has the landlord proved on the balance of probabilities that rent is owed and they are entitled to an Order of Possession and a monetary order for rental arrears and to recover the filing fee for this application? Or is the tenant entitled to any relief?

Background and Evidence:

Only the landlord attended the hearing although the tenant was served by posting the Notice on the door and they also had an Application to be heard at this time. The landlord was given opportunity to be heard, to present evidence and to make submissions. The landlord provided documentary evidence that the tenancy commenced on August 1, 2014, monthly rent was \$750 and a security deposit of \$375 was paid. The landlord stated that the tenant has not paid rent for October, November or December 2015 and he served a 10 day Notice to End Tenancy dated October 2 by posting it on the door. The tenant said in their application that they did not pay rent for October as the landlord indicated he wanted the unit for his own family's use. The tenants are still in residence.

In evidence is the Notice to End Tenancy for unpaid rent, the tenancy agreement and an amended Application of the landlord.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis:

Order of Possession:

I find the landlord is entitled to an Order of Possession. Although the tenant disputed the October 2, 2015 Notice to End Tenancy in time by applying on October 5, 2015, there is outstanding rent and the tenant did not provide documentary evidence or attend the hearing to support his dispute. Pursuant to section 46 and 55, I find the landlord entitled to an Order of Possession effective two days from service as requested.

Monetary Order:

To obtain a monetary order, the Application must be served pursuant to section 89 of the Act, that is either personally or by registered mail. Posting is not valid. As the tracking information showed the Application was returned to the landlord, I find this is insufficient service to obtain a monetary order. I give the landlord leave to reapply for the monetary order.

The tenant submitted no documentary evidence and did not attend the hearing to support their claim. I dismiss the Application of the tenant.

Conclusion:

I dismiss the application of the tenant in its entirety without leave to reapply. No filing fee was paid by the tenant.

I find the landlord entitled to an Order of Possession effective two days from service and to recover filing fees for this Application. I give the landlord leave to reapply for a monetary order for outstanding rent.

I HEREBY ORDER that the landlord may recover the \$50 filing fee by deducting it from the security deposit of the tenant.

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: December 03, 2015

Residential Tenancy Branch

