



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 seeks the following:

- a. An Order for Possession for cause
- b. A Monetary Order in the sum of \$2500 for non-payment of rent.
- c. An Order to recover the cost of the filing fee.

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

The Residential Tenancy Act permits a party to serve another by posting in a conspicuous place on the rental unit.. I find that the Notice to End Tenancy was served on the Tenant by posting on June 17, 2016. The Act provides that it is deemed received 3 days later. The tenant testified he did not receive the Notice. However, he admitted to receiving the Notice when it was included as part of the package which enclosed the Application for Dispute Resolution. I determined there was sufficient service. Further I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served by mailing, by registered mail to where the Tenant resides on July 26, 2016. 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 April 1, 2016. The tenant previously lived in another unit in the rental property. The rent is \$775 per month payable in advance on the first day of each month. The tenant paid a security deposit of \$387.50 at the start of the tenancy.

The tenant(s) has been behind on his rent. He presently owes \$775 for the month of September. The tenant does not dispute that he owes the money. He has been in and out of the hospital and has been unable to pay the rent when due. The tenant 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. With the consent of the parties I set the effective date of the Order for Possession for September 30, 2016.

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 the sum of \$775 remains outstanding. I determined the landlord has given sufficient notice of their intention to claim for all of last month as provided in the Application for Dispute Resolution. I granted the landlord a monetary order in the sum of \$775 plus the sum of \$100 in respect of the filing fee for a total of \$875.

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: September 13, 2016

Residential Tenancy Branch