



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR & 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 \$493 for unpaid rent and damages
- c. An order to recover the cost of the filing fee

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. The representative of the landlord testified the tenant was just in her office and paid \$1370 of the arrears. The representative of the landlord reminded her of the hearing and the tenant told the landlord she was returning home to connect with the hearing. However, despite waiting 15 minutes past the scheduled start time the tenant had still not connected.

I find that the 10 Notice to End Tenancy was served on the Tenant by posting on July 5, 2016. Further I find that the Application for Dispute Resolution/Notice of Hearing was personally served on the Tenant on July 28, 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 January 1, 2014. The tenant paid a security deposit of \$450 at the start of the tenancy. The present rent is \$958 per month payable in advance on the first day of each month.

The tenant failed to pay all of the rent for July 2016, August 2016 and September 2016. The landlord testified that on September 15, 2016 the tenant paid the sum of \$1370 leaving a balance of rent owing of \$100. The tenant(s) continues to live 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. 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 2016 and the sum of \$100 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 \$100 plus the sum of \$100 in respect of the filing fee for a total of \$200.

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.

The tenant has paid most of the arrears. However, the landlord is entitled to the Order for Possession that is sought. It is possible for the parties to enter an agreement for the reinstatement of the tenancy provided both parties agree even though an Order for Possession has been issued.

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 15, 2016

Residential Tenancy Branch