

DECISION

Dispute Codes

OPR, MNR & FF

Introduction

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

- a. An Order of Possession for non-payment of rent
- b. A monetary order in the sum of \$1425 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 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. I dismissed the request of the agent for the Tenant requested an adjournment because of the Tenant's ill health. The tenant has not filed an Application for Dispute Resolution to dispute the Notice to End Tenancy and as a result the Act provides she is conclusively presumed to have accepted the end of the tenancy. I determined the prejudice to the landlord was significant as the tenant has not paid rent for the last 3 months and is not likely to pay the arrears.

Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present. I ordered the Application for Dispute Resolution be amended to include a claim for all of the rent for December and the rent for January.

I find that the 10 day Notice to End Tenancy was served on the Tenant by placing it in her mailbox on November 29, 2016. Further I find that the Application for Dispute Resolution/Notice of Hearing was personally served on the Tenant on December 9, 2016. The agent for the Tenant did not dispute any of this evidence. 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 of 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 tenant moved into the rental unit approximately 4 years ago. The applicant purchased the rental property in April 2016. The present rent is \$950 per month. The landlord received a security deposit from the previous owner but he was uncertain as to the amount. The tenant(s) failed to pay the rent for the months of November 2016 (\$950 is owed), December 2016 (\$950 is owed) and January 2017 (\$582 is owed to January 19, 2017) and the sum of \$2482 remains owing. The tenant(s) have remained in the rental unit.

Analysis - Order of Possession:

I determined the landlord was entitled to an Order of 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. The agent for the Tenant requested that the Tenant be permitted to remain in the rental unit for 6 more days. I set the effective date of the Order of Possession for January 19, 2017.

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 November 2016 (\$950 is owed), December 2016 (\$950 is owed) and January 2017 (\$582 is owed to January 19, 2017) and the sum of \$2482 remains owing. I granted the landlord a monetary order in the sum of \$2482 plus the sum of \$100 in respect of the filing fee for a total of \$2582.

Conclusion:

I granted an Order for Possession effective January 19, 2017. In addition I ordered that the Tenant(s) pay to the Landlord(s) the sum of \$2582.

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: January 13, 2017

Residential Tenancy Branch