



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 \$803 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 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.

I find that the 10 day Notice to End Tenancy was served on the Tenant by posting on March 2, 2017. The Residential Tenancy Act permits a party to serve another by mailing, by registered mail to where the other party resides. It is deemed received 5 days later. The Policy Guidelines provides that a party cannot avoid service by failing to claim their registered mail. 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 March 15, 2017 and that it was sufficiently served 5 days after mailing even though the tenant failed to claim her registered mail. 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 September 1, 2012. The market rent is \$1500 per month. The rent is subsidized and the Tenant's share is \$597 per month payable on the first day of each month. The tenant paid a security deposit of \$450 at the start of the tenancy.

The tenant owed \$803 when the Notice was served. She has since made payments and the sum of \$154 remains outstanding to the end of April. The landlord accepted the payments for "use and occupation only." 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 effective April 30, 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 and the sum of \$154 remains outstanding to the end of April.. I granted the landlord a monetary order in the sum of \$154 plus the sum of \$100 in respect of the filing fee for a total of \$254.

Conclusion:

I granted an Order of Possession effective April 30, 2017. In addition I further ordered that the Tenant(s) pay to the Landlord(s) the sum of \$254.

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 final and binding on both parties.

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: April 11, 2017

Residential Tenancy Branch