



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MND & 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 \$2825 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 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 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. A party cannot avoid service by refusing to pick up their registered mail. I find that the 10 day Notice to End Tenancy was served on the Tenant by mailing, by registered mail to where the tenant resides on May 10, 2017. Further 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 June 5, 2017. The landlord testified the tenant picked up the package on June 22, 2017. 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 an oral tenancy agreement about 4 years ago. The rent was \$650 per month including utilities payable in advance.

The landlord testified that in May the tenant agreed to an increase in rent to \$775 as his girlfriend was living with him.

The tenant has failed to pay the rent for the months of May, June and July 2017. 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 on 2 days notice..

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:

The Residential Tenancy Act permits the parties to increase the rent for an additional occupant provided it is permitted in the written tenancy agreement and the parties have agreed in writing that the landlord could do this. The parties do not have a written tenancy agreement. As a result I determined the landlord is limited to claiming the \$650 for rent which was the amount originally agreed upon.

I determined the tenant has failed to pay the rent for the month(s) of May 2017 (\$650 is owed), June 2017 (\$650 is owed) and July 2017 (\$650 is owed) and the sum of \$1950 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 \$1950 plus the sum of \$100 in respect of the filing fee for a total of \$2050. I dismissed the claim for damages with liberty to re-apply as that claim is premature.

Conclusion:

I granted an Order of Possession on 2 days Notice. In addition I ordered that the Tenant(s) shall pay to the Landlord(s) the sum of \$2050.

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: July 20, 2017

Residential Tenancy Branch