



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 \$1995 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 June 13, 2017. Further I find that the Decision in the Direct Request Application for Dispute Resolution and the Notice of Hearing reconvening to today's date was served by posting on July 5, 2017. Further, I find that the documents in support of this Application including the Notice of Hearing were served by mailing, by registered mail to where the respondent resides on July 21, 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 landlord and the tenant (and his spouse) entered into a written tenancy agreement for a double unit that provided that the tenancy agreement would commence on July 1, 2017 and continue on a month to month basis. The rent was set at \$570 per month payable in advance on the first day of each month. The landlord produced a signed tenancy agreement and the Shelter Information document to prove this.

In November the respondent's spouse was incarcerated and has not returned to the rental unit.

The tenant continues to live in the rental unit but he is only paying half of the rent. The landlord offered him a single person room on several occasions but he has refused to move. I determined the tenant owes \$2565 in outstanding rent for the end of August 2017.

The landlord's application by Direct Request for a monetary order and an Order of Possession was rejected by the adjudicator because the landlord had inadvertently submitted a tenancy agreement one of the co-tenants that indicated the rent was \$285 per month. Further it appeared based on the tenant ledger and the tenancy agreement that the tenant may have over-paid the rent during the first few months thus no rent was owed. The landlord submitted the Shelter Information and correct tenancy agreement for this unit indicating the actual rent was \$570 per month.

Analysis - Order of Possession:

I determined the landlord was entitled to an Order for Possession. There is outstanding rent. The Tenant has not made an application to set aside the 10 day 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 of Possession for August 31, 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:

The landlord stated he was not interested in obtaining a monetary order and an order for the cost of the filing fee at this time. I dismissed the claim for a monetary order with liberty to re-apply. I dismissed the claim for the cost of the filing fee without leave to re-apply.

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: August 21, 2017

Residential Tenancy Branch