



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, & FF

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 \$2800 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.

I ordered that the Application for Dispute Resolution be amended to add AJD as an applicant. The corporate applicant is an agent. AJD owns the rental property and is the proper person to be named as the landlord. I also ordered the Application for Dispute Resolution be amended to include a claim of non payment of rent for the additional months of October, November and December 2017.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present. The parties acknowledged they had received the documents of the other party.

I find that the 10 day Notice to End Tenancy was personally served on the Tenant on September 18, 2017. Further I find that the Application for Dispute Resolution/Notice of Hearing was personally served on the Tenants on October 15, 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 3 years ago. The present rent is \$700 per month payable in advance on the first day of each month. The tenants paid a security deposit of \$325 at the start of the tenancy.

The tenant(s) failed to pay the rent for the months of September, October, November and December 2017 and the sum of \$2800 remains owing. The tenant(s) continue to reside in the rental unit.

The agent for the tenants testified they are on limited income. They were unable to pay the rent for September 2017 because his father was ill in hospital and they exhausted their money visiting him and with other expenses. They did not pay the rent for subsequent months because they were unable to pay the rent within the 5 days that would void the Notice. The agent does not dispute that the tenants have not paid the rent for the last 4 months.

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 of Possession for January 1, 2018.

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, October, November and December and the sum of \$2800 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 \$2800 plus the sum of \$100 in respect of the filing fee for a total of \$2900.

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: December 20, 2017

Residential Tenancy Branch