



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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 for unpaid rent
- c. An order to retain the security deposit
- d. 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 November 21, 2017. The Residential Tenancy Act permits a party to serve another by mailing, by registered mail to where the other party resides. The Policy Guidelines provide that a party cannot avoid service by refusing to pick up their registered mail. I find that the Application for Direct Request was served on the Tenant by mailing, by registered mail to where the Tenant resides on December 8, 2017 and that it was sufficiently served even though the tenant failed to claim the documents. I find the Notice of Reconvened Hearing and Interim Order was served on the Tenant by mailing, by registered mail to where the Tenant resides on December 20, 2017 and that it was sufficiently served even though the Tenant failed to claim the documents. 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 month to month tenancy agreement that provided that the tenancy would start on September 1, 2017. The rent is \$1000 per month payable on the first day of each month payable in advance on the first day of each month. The tenancy agreement provided that the Tenant would pay a security deposit of \$500 put the cheque was returned NSF.

The tenant(s) failed to pay the rent for the months of September and the amount owing is \$910. In addition the tenant failed to pay the rent for October 2017 (\$1000 remains owing), November 2017 (\$1000 remains owing) and December 2017 (\$1000 remains owing) and the total amount outstanding in rent for September to December 2017 is \$3910. The tenant(s) continues to reside in the rental unit.

Landlord's Application - 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:

I determined the tenant has failed to pay the rent for the month(s) of September and the amount owing is \$910. In addition the tenant failed to pay the rent for October 2017 (\$1000 remains owing), November 2017 (\$1000 remains owing) and December 2017 (\$1000 remains owing) and the total amount outstanding in rent for September to December 2017 is \$3910. I dismissed the claim for the security deposit as the security deposit can be applied against a monetary order obtained by the landlord but it is not the grounds for a separate claim.

I granted the landlord a monetary order in the sum of \$3910 plus the sum of \$100 in respect of the filing fee for a total of \$4010.

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 the 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: January 09, 2018

Residential Tenancy Branch