



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, LRE, MNDCT
FFL, MNRL, OPR

The Application for Dispute Resolution filed by the Tenant makes the following claims:

- a. An order to cancel the 10 day Notice to End Tenancy dated November 2, 2017
- b. A monetary order in the sum of \$700
- c. An order to suspend or set conditions on the landlord's right to enter the rental unit.

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 \$3000 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 landlord and in the absence of the Tenant 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 2, 2017. Further I find that the Application for Dispute Resolution/Notice of Hearing filed by the landlord was sufficiently served on the Tenant as the Tenant acknowledged to the Landlord that he has received it. 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 tenant is entitled to an order cancelling the 10 day Notice to End Tenancy dated November 2, 2017?
- b. Whether the tenant is entitled to a monetary order and if so how much?
- c. Whether the Tenant is entitled to an order to suspend or set conditions on the landlord's right to enter the rental unit?
- d. Whether the landlord is entitled to an Order for Possession?

- e. Whether the landlord is entitled to A Monetary Order and if so how much?
- f. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- g. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence:

The tenancy began on August 15, 2017. The tenant was supposed to sign a written tenancy agreement and pay a security deposit of \$500 but refused to do so. The rent was \$1000 per month payable in advance on the first day of each month.

The tenant failed to pay the rent for the months of November 2017 (\$1000 is owed), December 2017 (\$1000 is owed) and January 2018 (\$1000 is owed) and the sum of \$3000 remains outstanding. The tenant continues to reside in the rental unit.

Tenant's Application:

The Tenant failed to attend the hearing at the scheduled start of the hearing. The telephone line remained open while the phone system was monitored for ten minutes. The tenant failed to attend.

As the tenant failed to attend the hearing I ordered that the Tenant's application including his application to cancel the 10 day Notice to End Tenancy and a monetary order be dismissed without leave to re-apply.

Order for Possession:

The Residential Tenancy Act provides that where an arbitrator has dismissed a tenant's application to cancel a Notice to End Tenancy, the arbitrator must grant an Order for Possession. As a result 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.

Landlord's Application - Order of Possession:

For the above reasons I granted an Order of Possession to the Landlord

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Analysis - Monetary Order and Cost of Filing fee:

I determined the tenant has failed to pay the rent for the month(s) of November 2017 (\$1000 is owed), December 2017 (\$1000 is owed) and January 2018 (\$1000 is owed) and the sum of \$3000 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 \$3000 plus the sum of \$50 in respect of the filing fee for a total of 3100.

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.

Conclusion:

I dismissed the Tenant's application without leave to re-apply. I granted an Order of Possession on 2 days notice. I ordered that the Tenant pay to the Landlord the sum of \$3100.

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 22, 2018

Residential Tenancy Branch