



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD & 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 \$2400 for unpaid rent
- c. An order to recover the cost of the filing fee

The tenant(s) failed to appear at the scheduled start of the hearing which was 1:00 p.m. on May 14, 2018. The landlord was present and ready to proceed. I left the teleconference hearing connection open and did not start the hearing until 10 minutes after the schedule start time in order to enable the tenant to call in. The tenants failed to appear. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I then proceeded with the hearing. The landlord was given a full opportunity to present affirmed testimony, to make submissions and to call witnesses. 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 Tenants by posting on March 22, 2018. 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 claim their registered mail. I find that the Application for Dispute Resolution and Notice of Dispute Resolution Hearing was served on the Tenants by mailing, by registered mail to where the tenants reside on April 9, 2018 and that it was sufficiently served even though the Tenants failed to pick up their registered mail package. With respect to each of the applicant's claims I find as follows:

Rule 4.2 of the Rules of Procedure provide as follows:

4.2 Amending an application at the hearing

In circumstances that can reasonably be anticipated, such as when the amount of rent owing has increased since the time the Application for Dispute Resolution was made, the application may be amended at the hearing.

If an amendment to an application is sought at a hearing, an Amendment to an Application for Dispute Resolution need not be submitted or served.

I ordered that the Application for Dispute Resolution be amended to include a claim for non payment of the rent for April 2018 in the sum of \$1400 and May in the sum of \$1400.

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 tenancy agreement that provided that the tenancy would start on April 1, 2016. The rent is \$1400 per month payable in advance on the first day of each month. The tenant paid a security deposit of \$700 at the start of the tenancy.

The tenant(s) failed to pay the rent for the months of February, March, April and May 2018 and the sum of \$5600 remains owing. The tenant(s) continue 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:

I determined the tenant has failed to pay the rent for the month(s) of February, March, April and May 2018 and the sum of \$5600 remains owing. I granted the landlord a

monetary order in the sum of \$5600 plus the sum of \$100 in respect of the filing fee for a total of \$5700.

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: May 14, 2018

Residential Tenancy Branch