



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OPR, MNR, MDSD & FF

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 October 26, 2018.
- b. An order that the landlord comply with the Act, regulation and/or the tenancy agreement
- c. An order for emergency repairs

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 \$5337.76
- 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 11:00 a.m. on December 13, 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 tenant(s) 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 the hearing a decision has been reached. All of the evidence was carefully considered.

I find that the Notice to End Tenancy was served on the Tenant by posting on October 26, 2018. Further I find that the Application for Dispute Resolution and Notice of Dispute Resolution Hearing filed by the landlord was sufficiently served on the Tenant on November 8, 2018 as the landlord testified she witnessed the tenant take possession of it. With respect to each of the applicant's claims I find as follows:

Preliminary Matter:

The tenant SJM included AF as a tenant in his application. However, she is not a tenant on the tenancy agreement. The landlord's application does not make a claim against AF. I determined AF is not a tenant and no order is made against her.

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 October 26, 2018?
- b. Whether the tenant is entitled to an order that the landlord comply with the Act, regulation and/or the tenancy agreement?
- c. Whether the Tenant is entitled to an order for emergency repairs?
- 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 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 October 15, 2018 and end on October 14, 2019. The landlord testified the rent was \$920 plus \$355 for utilities for a total of \$1275 payable in advance on the first day of each month. The landlord testified that the Tenant failed to pay a security deposit even though the tenancy agreement stated that a security deposit of \$625 was supposed to be paid.

The tenant(s) failed to pay the rent for the months of September 2018 (\$920 is owed), October 2018 (\$920 is owed), November 2018 (\$920 is owed) and December 2018 (\$920 is owed) and the sum of \$3680 remains owing. In addition the tenant failed to pay the utilities and the sum of \$1065 for the months of September, October and November 2018.

The tenant(s) continues to reside in the rental unit.

The landlord testified that SJM is her son.

The landlord further testified she is involved in a matrimonial dispute before the Supreme Court of British Columbia and there is an order that the rental property must be sold by the middle of February 2019.

Tenant's Application:

The tenant failed to appear at the hearing. Rule 7.3 of the Rules of Procedure provides as follows:

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

As the Tenant failed to appear and the Landlord was present I ordered the application of the Tenant including the application to cancel the Notice to End Tenancy be dismissed without liberty to reapply.

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. The landlord testified she is involved in a matrimonial dispute before the Supreme Court of British Columbia and there is an order that the rental property must be sold by the middle of February. The landlord testified she needed to regain possession of the rental property as quickly as possible. 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 reasons set out above I granted an Order of Possession on 2 days notice. I

Analysis - Monetary Order and Cost of Filing fee:

I determined the tenant has failed to pay the rent for the months of September 2018 (\$920 is owed), October 2018 (\$920 is owed), November 2018 (\$920 is owed) and December 2018 (\$920 is owed) and the sum of \$3680 remains owing. In addition the tenant failed to pay the utilities and the sum of \$1065 for the months of September, October and November 2018. I determined the landlord has established a monetary claim against the tenant in the sum of \$4745.

I granted the landlord a monetary order in the sum of \$4745 plus the sum of \$100 in respect of the filing fee for a total of \$4845.

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 SJM pay to the landlord the sum of \$4845.

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: December 13, 2018

Residential Tenancy Branch