



Dispute Resolution Services

Page: 1

Residential Tenancy Branch Office of Housing and Construction Standards

A matter regarding 1105570 BC Ltd
and [tenant name suppressed to protect privacy]

REVIEW HEARING DECISION

Dispute Codes OPR MNR FF

Introduction

Initially, the Landlord filed an application for Direct Request in May of 2019, requesting an order of possession and monetary order based on unpaid rent, pursuant to the *Residential Tenancy Act* (the Act). This matter proceeded by way of an *ex parte* Direct Request Proceeding, pursuant to section 55(4) of the Act. The Landlord was successful and a monetary order was issued, along with an order of possession, on May 14, 2019.

Subsequently, the Tenant applied for a review consideration, and stated he had paid rent, and the decision and order should be set aside. As a result, our office granted a new review hearing (for today) on the basis that Landlord may have committed fraud.

The review hearing was scheduled for today, July 8, 2019 at 9:30 am. The Landlord attended the hearing. However, the Tenant did not. Given that the Tenant failed to attend the review hearing, I dismiss his Review consideration application, without leave to reapply.

At a review hearing, I may confirm, vary or set aside the original decision or order. In this case, the Tenant has failed to attend the review hearing, which was set up because he alleged that the Landlord had fraudulently obtained a monetary order and an order of possession, even though he claims rent was paid.

At this review hearing, the Landlord stated that this is a delay tactic the Tenant has been playing, and the Tenant never served him with any of the paperwork or the evidence he used to allege the fraud was committed. The Landlord stated that the Tenant has continued to occupy the rental unit and has not paid any rent for May, June, or July of 2019. The Landlord also stated that monthly rent is \$3,000.00, due on the first of the month. The Landlord stated that the initial monetary order he received in May was for May rent, totalling \$3,000.00, plus \$100.00 for the filing fee. However, since the Tenant has continued to live in the rental unit and not pay any rent, rent has continued to accrue and he now owes \$9,000.00, which includes the current month. The Landlord has requested that I amend his initial application to include rent that has accrued since he applied.

I turn to the following Rules of Procedure (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.

In consideration of this, I allow the Landlord to amend their application to include rent that has accrued since the original application date.

In summary, the Tenant was granted this review hearing, because he alleged fraud, however, he did not attend to support any of these allegations. Given then Tenant failed to attend, I confirm the order of possession issued on May 14, 2019. That order is enforceable and stands as written.

With respect to the monetary order that accompanied the initial order of possession, I hereby I vary that monetary order, to reflect the accrued rent, as laid out above. I issue the new monetary order in the amount of \$9,100.00, which reflects rent for May, June, and July of 2019, plus the filing fee paid by the Landlord for his initial application in May of 2019.

Conclusion

The decision and monetary order issued on May 14, 2019, is varied. A new order is issued and the Landlord is granted a monetary order in the amount of **\$9,100.00**, as specified above. This order must be served on the Tenant. If the Tenant fails to comply with this order the Landlord may file the order in the Provincial Court (Small Claims) and be enforced as an order of that Court.

The order of possession issued on May 14, 2019 is confirmed and the Landlord may enforce that order of possession.

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: July 08, 2019

Residential Tenancy Branch