



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPUM-DR & FFL

Introduction

The Application for Dispute Resolution filed by the landlord seeks the following:

- a. An Order for Possession for non payment of rent
- b. A Monetary Order in the sum of \$4933.82 for non-payment of rent and utilities.
- 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 9:30 a.m. on October 1, 2019. A representative of 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 representative of 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 10 day Notice to End Tenancy was served on the Tenant by posting on July 9, 2019.

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 August 3, 2019. The adjudicator ordered that the matter be set down for an oral hearing. I find Application for Dispute Resolution and Notice of Dispute Resolution Hearing was served on the Tenant by mailing, by registered mail to where the tenant resides on August 9, 2019. The tenant refused to claim the documents. I find that there was sufficient service even though the tenant refused to pick up the documents. With respect to each of the applicant's claims I find as follows:

I ordered that the Application for Dispute Resolution be amended to include a claim for non payment of the rent for August 2019 and September 2019.

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 November 15, 2017. The rent was \$875 per month payable in advance on the first day of each month. The tenant(s) paid a security deposit of \$425 and a utility deposit of \$450 at the start of the tenancy.

The tenant fell into arrears and failed to pay the full rent and utilities. As of July 8, 2019 the tenant owed rent of \$4075 and utilities of \$858.82. The tenant has failed to pay the rent for August 2019 (\$875 is owed) and September 2019 (\$875 is owed). I determined the tenant owes rent in the sum of \$5825 to the end of September 2019 and utilities in the sum of \$858.82 to July 1, 2019 for a total of \$6683.82

The tenant continues 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 in the sum of \$5825 to the end of September 2019 and utilities in the sum of \$858.82 to July 1, 2019 for a total of \$6683.82

I granted the landlord a monetary order in the sum of \$6683.82 plus the sum of \$100 in respect of the filing fee for a total of \$6783.82.

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: October 01, 2019

Residential Tenancy Branch