



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPRM-DR, FFL

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

- a. An Order of Possession for non-payment of rent
- b. A monetary order in the sum of \$975 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 9:30 a.m. on November 8, 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 Notice to End Tenancy was personally served on the Tenant on September 3, 2019. Further I find that the Application for Direct Request was served on the Tenant by mailing, by registered mail to where the Tenant resides on September 25, 2019. I find that the 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 October 12, 2019. 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 landlord is entitled to an Order of 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 1, 2018. The rent is \$975 per month payable on the first day of each month. The tenant paid a security deposit of \$487.50 at the start of the tenancy.

The tenant(s) failed to pay the rent for the months of September 2019 when due. The rent for September was subsequently paid in a payment on September 14, 2019 and September 16, 2019. The landlord accepted the payment for use and occupation only. The rent for October was not paid until October 23, 2019. That payment was accepted for use and occupation. A part payment for November in the sum of \$487.50 was made on October 28, 2019. The balance of the rent in the sum of \$487.50 remains outstanding.

Analysis - Order of Possession:

I determined the landlord was entitled to an Order of Possession. The tenant failed to pay the arrears within the 5 days that would void the Notice. While the rent for September and October has been paid it was accepted by the landlord for use and occupation only. The tenant still owes \$487.50 in rent for November 2019. 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 of Possession effective November 30, 2019.

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 November 2019 and the sum of \$487.50 remains outstanding. I granted the landlord a monetary order in the sum of \$487.50 plus the sum of \$100 in respect of the filing fee for a total of \$587.50.

Conclusion:

I granted an Order of Possession effective November 30, 2019. I further ordered that the Tenant(s) pay to the Landlord(s) the sum of \$587.50.

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: November 08, 2019

Residential Tenancy Branch