



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, FFT, OLC, FFL, OPRM-DR

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 September 6, 2019
- b. An order that the landlord comply with the Act, regulation and/or the tenancy agreement
- c. An order that the tenant recover the cost of the filing fee

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 \$1695
- 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 November 25, 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 Notice to End Tenancy was served on the Tenant by mailing, by registered mail to where the Tenant resides on September 6, 2019. 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 by mailing, by registered mail to where the Tenant resides on September 27, 2019.

Rule 4.2 provides 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 order that the Landlord's Application for Dispute Resolution be amended to include a claim for non payment of the rent for October 2019 (\$1695 is owed) and November 2019 (\$1695 is owed).

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 September 6, 2019?
- 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 recover the cost of the filing fee?
- 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 November 1, 2018 and end on October 31, 2019. The rent is \$1695 per month payable on the first day of each month. The tenant paid a security deposit of \$847.50 at the start of the tenancy.

The tenant(s) failed to pay the rent for the months of September, October and November 2019 and the sum of \$5085 remains owing.

The tenant continues to reside in the rental unit.

Tenant's Application:

The tenant failed to attend the hearing and failed to sufficient evidence which might form the basis of an order to cancel the 10 day Notice to End Tenancy. The landlord testified that tenant owes rent of \$1695 per month for the months of September 2019, October 2019 and November 2019.

Determination and Orders:

After carefully considering all of the evidence I determined that the landlord has established sufficient cause to end the tenancy. As a result I dismissed the tenant's application to cancel the 10 day Notice to End Tenancy and the other claims in the tenant's application without leave to re-apply.

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 used the approved government form. 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.

Analysis - Monetary Order and Cost of Filing fee:

I determined the tenant has failed to pay the rent for the month(s) of September 2019, October 2019 and November 2019 and the sum of \$5085 remains outstanding. I determined the landlord has given sufficient notice of their intention to claim for all of last month as provided in the Application for Dispute Resolution. I granted the landlord a monetary order in the sum of \$5085 plus the sum of \$100 in respect of the filing fee for a total of \$5185.

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 pay to the Landlord the sum of \$5185.

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: November 25, 2019

Residential Tenancy Branch