



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL-S, FFL

Introduction

The landlord applies for a monetary award against the tenant for outstanding rent and utilities, the replacement cost of two storage sheds, recover of court and bailiff costs and damages for cleaning and repair to the premises.

The respondent tenant did not attend for the hearing within 15 minutes after its scheduled start time at 1:30 p.m. on December 7, 2020. The teleconference hearing connection remained open during that time in order to enable the parties to call into the teleconference hearing. The call-in numbers and participant codes provided in the Notice of Hearing were confirmed as correct. The teleconference system audio console confirmed that the landlord WL and this arbitrator were the only ones who had called into this teleconference during that period.

WL proved service of the Notice of Dispute Resolution Proceeding on the tenant by reference to the affidavit of a bailiff attesting that service was effected on the tenant personally by the bailiff on August 20, 2020. I find that the tenant has been duly served with notice of this hearing.

Since bringing the application the landlord has significantly increased her claim for cleaning and repairs, including the repair of the grounds. WL served the tenant with a revised and increased monetary order worksheet by registered mail to a forwarding address the tenant had provided in a writing back in August. WL sent the registered mail on November 20. The tenant appears not to have yet claimed the mail from the post office (Canada Post records current to November 23).

Rule 3.14 of the Rules of Procedure mandates that an applicant must provide documentary evidence to the respondent “not less than 14 days” before the hearing.

Under s. 90 of the *Residential Tenancy Act*, a document served by registered mail is deemed to have been received five days after mailing.

Accordingly, the tenant was entitled to receive the landlord's additional evidence and notice of the significantly increased claim for damage and repair charges by at least November 23 and, considering that the time of 14 days is qualified by the phrase "no less than," the date would likely have been November 21 (as November 22 was a Sunday and thus a holiday). The calculation of time periods in days is set out in s. 25.2 of the *Interpretation Act*, R.S.B.C. 1996, c. 238.

Thus, in order for the landlord to comply with the time rules, the registered mail would have had to be sent to the tenant November 16th or earlier. I find the landlord has failed to give the tenant notice of the increased claim at least 14 days before this hearing.

Having discussed this issue at hearing, the landlord agreed that her entire claim for damages for cleaning and repairs to the premises will be dismissed with leave to re-apply, and I so order.

The landlord testifies that the tenant failed to pay the \$1525.00 monthly rent for the months of May, June, July and August 2020. On this uncontested evidence I award the landlord \$6100.00.

The landlord testifies that the tenant owes \$570.72 for unpaid utilities. The landlord has filed utilities bills to corroborate the testimony. On this uncontested evidence I award the landlord \$570.72.

The landlord testifies that the tenant or a person permitted on the property by the tenant removed two storage sheds from the property. I accept the landlord's uncontested evidence that the cost to replace the sheds has been quoted at \$2440.99 and I award that amount to the landlord.

On the landlord's uncontested evidence and corroborating receipts I award her \$1144.50 for the cost of a bailiff to enforce an Order of Possession obtained by the landlord August 18, 2020, \$111.30 for the bailiff's cost to provide an affidavit of service and \$120.00 paid to Court Services to obtain the necessary Writ of Possession empowering the bailiff.

In result, the landlord is entitled to a monetary award totalling \$10,487.51.

As the landlord has been successful on this application, I award her recovery of the \$100.00 filing fee.

I authorize the landlord to retain the \$662.50 remainder of the security deposit in reduction of the amount awarded. The landlord will have a monetary order against the tenant for the remainder of \$9925.01.

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 07, 2020

Residential Tenancy Branch