



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, MDSD & FF

Introduction

A hearing was conducted by conference call in the presence of a representative of the applicant and in the absence of the respondent although duly served. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

The Residential Tenancy Act permits a party to serve another by mailing, by registered mail to where the other party resides. The Supreme Court of British Columbia has held that a party cannot avoid service by refusing to pick up their registered mail. I find that the Notice to End Tenancy was sufficiently served on the Tenant by mailing, by registered mail to where the tenant resides on March 25, 2013. The Act provides that it is deemed received 5 days later. Further I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the Tenant by mailing, by registered mail to where the Tenant resides on April 19, 2013. I determined the Notice to End Tenancy and the Application for Dispute Resolution were sufficiently served on the Tenant even though the Tenant failed to pick up the documents. 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 for Possession?
- b. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence:

The tenancy began on October 1, 2010. The rent is \$899 per month plus utilities payable on the first day of each month.

The landlord served a one month Notice to End Tenancy by registered mail and it is deemed received by the Tenant 5 days later.

The tenant(s) remains in the rental unit. The Tenant has not filed an Application to cancel the Notice.

The landlord attempted to cash the rent cheque for May on a "use and occupation basis" but the cheque was returned NSF. The rent for May has not been paid.

Analysis - Order of Possession:

I determined the landlord was entitled to an Order for Possession. The landlord served a one month Notice to End Tenancy on the Tenant by mailing, by registered mail on March 25, 2013 and it is deemed received by the Act 5 days later. 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. I further ordered that the tenant pay to the landlord the sum of \$50 for the cost of the filing fee such sum may be deducted from the security deposit.**

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.

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: May 13, 2013

Residential Tenancy Branch

