



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MDSD & FF

Introduction

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 \$2540 for unpaid rent and damages
- c. An order to retain the security deposit.
- d. An order to recover the cost of the filing fee

A hearing was conducted by conference call in the presence 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.

I find that the 10 day Notice to End Tenancy was personally served on the Tenant on October 1, 2015. The Residential Tenancy Act permits a landlord to serve a tenant by mailing, by registered mail to the forwarding address provided by the tenant. The Supreme Court of British Columbia has held that a party cannot void service by refusing to claim their registered mail. I find that the Application for Dispute Resolution/Notice of Hearing was served on the tenant by mailing; by registered mail to the forwarding address provided by the tenant on October 30, 2015 and that it has been sufficiently served even though the tenant refused to claim his registered mail.

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 an order to keep the security deposit?
- d. 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 January 1, 2015. The rent is \$1350 per month payable in advance on the first day of each month. The tenant paid a security deposit of \$650 at the start of the tenancy. The tenant(s) failed to pay the rent for the months of September and October and the sum of \$2700 remains owing.

The tenant(s) has vacated the rental unit. .

Analysis - Order of Possession:

It is no longer necessary to consider the landlord's application for an Order for Possession as the tenant has vacated and the landlord has regained possession.

Analysis - Monetary Order and Cost of Filing fee:

With regard to each of the landlord's claims I find as follows:

- a. I determined the tenant has failed to pay the rent for the month(s) of September and October and the sum of \$2700 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.
- b. I determined the landlord is entitled to two \$7 NSF charges for a total of \$14.
- c. I determined the landlord is entitled to \$200 for the cost to replace a special entrance key that was not returned.
- d. I determined the landlord is entitled to \$201.69 for the cost of a washing machine repair.
- e. I dismissed the claim for registered mail delivery charge as an arbitrator does not have the jurisdiction to award that claim. It involves a cost of litigation. The only cost an arbitrator can award is the cost of the filing fee.

I granted the landlord a monetary order in the sum of \$3115.69 plus the sum of \$50 in respect of the filing fee for a total of \$3165.69.

Security Deposit:

I determined the security deposit plus interest totals the sum of \$650. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$2515.69.

Conclusion:

In conclusion I ordered that the landlord shall retain the security deposit of \$650. I further ordered that the tenant pay to the landlord the sum of \$2515.69.

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 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 22, 2015

Residential Tenancy Branch

