



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.

I find that the 10 day Notice to End Tenancy was sufficiently served on the Tenants by posting on April 3, 2013. Further I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the Tenants by mailing, by registered mail to where they reside on April 12, 2013. 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 A Monetary Order and if so how much?
- c. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- d. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence:

The tenancy began on November 1, 2010. The rent is \$1000 per month payable on the first day of each month. The tenants paid a security deposit of \$500 at the start of the tenancy.

The tenants failed to pay the rent for April and May and the sum of \$2000 remains owing.

The landlord testified that she was unsure but the tenants may have vacated the rental unit. tenant(s) failed to pay the rent for the months of September and the sum of \$800 remains owing. The tenant(s) have remained in the rental unit.

Analysis - Order of Possession:

I determined the landlord was entitled to an Order for Possession. There is outstanding rent. 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.

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 April and May and the sum of \$2000 remains owing. 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. In addition I determined the landlord was entitled to \$650 for the cost of cleaning the yard. The tenants were obligated to clean the yard. The landlord received a Notice from the City about the accumulation of debris on the yard and that if the landlord failed to clean the yard the City would do so with a current average cost of \$3000. The landlord hired a contractor at a cost of \$650 to remove the debris and clean the yard. **I granted the landlord a monetary order in the sum of \$2650 plus the sum of \$50 in respect of the filing fee for a total of \$2700.**

Security Deposit

I determined the security deposit plus interest totals the sum of \$500. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$2200.

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: May 09, 2013

Residential Tenancy Branch

