



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 both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that a 10 day Notice to End Tenancy was personally served on the Tenant on March 2, 2013 and another 10 day Notice to End Tenancy was personally served on the Tenant on May 24, 2013. Further I find that the Application for Dispute Resolution/Notice of Hearing was personally served on the Tenant on May 14, 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 recover the cost of the filing fee?

Background and Evidence:

The tenancy began approximately 7 years ago. The present rent is \$700 per month payable on the first day of each month. The tenant paid a security deposit of \$300 at the start of the tenancy.

The tenant agreed the sum of \$5300 is owed in outstanding rent from period 2012 to and including June 2013. The rent in the sum of \$700 is due and owing on July 1, 2013.

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 period 2012 to and including June 2013 and the sum of \$5300 remains outstanding. **I granted the landlord a monetary order in the sum of \$5300 plus the sum of \$50 in respect of the filing fee for a total of \$5350.**

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.

Settlement:

The tenant represented that he could pay the outstanding rent and the rent for July by making a payment of \$3000 on June 13, 2013 and a second pay of \$3050 (which would be the arrears and the rent for July 2013) on July 1, 2013. The parties reached a settlement and asked that I record the settlement as follows:

1. The tenant shall pay the sum of \$3000 on or before June 13, 2013 and the sum of \$3050 on or before July 1, 2013.
2. The landlord agrees that if the tenant makes the payment as provided for above the landlord shall reinstate the tenancy and shall not exercise her rights under the monetary order and Order for Possession. However, if the tenant fails to make any one of those payments as provided above the landlord shall have the right to exercise her rights under the monetary order and Order for Possession.

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: June 10, 2013

Residential Tenancy Branch

