



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 the applicant and in the absence of the respondents 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 Notice to End Tenancy was personally served on the Tenants on June 18, 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 the Tenants reside on July 4, 2013. The Residential Tenancy Act provides that it is deemed received 5 days later. 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 5, 2012 when the parties entered into a tenancy agreement in writing with the rent at \$975 per month. The tenants paid a security deposit of \$487.50 at the start of the tenancy. At the request of the tenants the landlord

gave the tenants additional space for \$50 per month. The parties subsequently agreed the rent for the additional space was \$25 per month.

The tenants failed to pay the rent for May (\$500 is owed), June (\$1000 is owed) and July (\$1000 is owed) and the sum of \$2500 is owed. In addition the tenants owe the landlord the sum of \$782 for their share of the hydro (until May 7, 2013) and gas (to May 16, 2013) for a total of 3282.

The tenants have not returned the keys and they live in a community several hours from where the landlord lives. However, the landlord testified that the neighbors have told him that the tenants vacated the rental unit around July 25, 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 tenants have failed to pay the rent for the month(s) of May (\$500 is owed), June (\$1000 is owed) and July (\$1000 is owed) and the sum of \$2500 is owed. In addition the tenants owe the landlord the sum of \$782 for their share of the hydro (until May 7, 2013) and gas (to May 16, 2013) for a total of \$3282. I dismissed the claim for rent for August as that claim is premature. The landlord has liberty to re-apply. I

granted the landlord a monetary order in the sum of \$3282 plus the sum of \$50 in respect of the filing fee for a total of \$3332.

Security Deposit

I determined the security deposit plus interest totals the sum of \$487.50. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$2844.50.

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: August 01, 2013

Residential Tenancy Branch

