



Dispute Resolution Services

Page: 1

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 the Notice to End Tenancy was personally served on the Tenants on December 3, 2013. Further I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on each of the Tenants by mailing, by registered mail to where the tenants reside on December 21, 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 parties entered into a tenancy agreement ON July 7, 2008. The present rent is \$1750 per month payable in advance on the first day of each month. The tenants paid a security deposit of \$800 on July 5, 2008.

The tenants have failed to pay the rent for the months of November (\$1350 is owed), December (\$1750 is owed) and January 2014 (\$1750 is owed) and the sum of \$4850 remains owing.

The tenant testified that he has been unable to pay the rent because he has been unable to work in order to care for his very ill mother. Further, there was a problem in receiving his mother's pension. He testified that he will be able to make a significant payment tomorrow and the balance can be paid with 10 to 14 days. The representative of the landlord stated they wished to end the tenancy.

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. The Residential Tenancy Act no longer gives an arbitrator the jurisdiction to grant an extension of time to pay the rent. **Accordingly, I granted the landlord an Order for Possession effective 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 November (\$1350 is owed), December (\$1750 is owed) and January 2014 (\$1750 is owed) and the sum of \$4850 remains owing. **I granted the landlord a monetary order in the sum of \$4850 plus the sum of \$50 in respect of the filing fee for a total of \$4900.**

Security Deposit

I determined the security deposit plus interest totals the sum of \$805.90. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$4094.10.

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: February 05, 2014

Residential Tenancy Branch

