



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. 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 sufficiently served on the Tenant by posting on January 28, 2014. Further I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the Tenant on February 15, 2014 as the tenant participated in the hearing. 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 that provided that the tenancy would start on October 16, 2013. The rent is \$700 per month payable on the first day of each month. The tenant paid a security deposit of \$350 at the start of the tenancy.

The tenant(s) failed to pay the rent for the months of January 2014 and February 2014 and the sum of \$1400 remains owing. The tenant continues to live in the rental unit.

Analysis

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. **I set the effective date for the Order for Possession for February 28, 2014.**

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 months of January 2014 and February 2014 and the sum of \$1400 remains owing. I dismissed the claim for the cost of utilities with liberty to re-apply as the landlord failed to provide sufficient particulars. I granted the landlord a monetary order in the sum of \$1400 plus the sum of \$50 in respect of the filing fee for a total of \$1450.

Security Deposit

I determined the security deposit plus interest totals the sum of \$350. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$1100.

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.

The tenant alleged the landlord failed to make needed repairs. The tenant must first filed an Application for Dispute Resolution before that issue can be determined. The landlord alleged the tenant failed to pay utilities. I dismissed this claim with liberty to re-apply as the landlord must provide sufficient particulars to bring such a claim.

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 25, 2014

Residential Tenancy Branch

