



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 Tenant by posting on March 6, 2014. Further I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the Tenant by mailing, by registered mail to where the Tenant resides on March 20, 2014. Further, the tenant has acknowledged to the landlord that he has received the Application for Dispute Resolution. 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 one year fixed term written tenancy agreement that provided that the tenancy would start on September 1, 2012, continue for one year and become month to month after that. The present rent is \$1001.43 per month payable on the first

day of each month. The tenant(s) paid a security deposit of \$462.50 at the start of the tenancy. The tenant has failed to pay the rent for April (\$1026.43 is owed including a \$25 NSF fee) and May (\$1026.43 is owed including a \$25 NSF fee) and the sum of \$2052.86 remains owing. The tenant continues to reside in the rental unit.

Analysis - Order of Possession:

I determined the landlord was entitled to an Order for Possession. While the Tenant paid the arrears set out in the Notice to End Tenancy he paid the arrears after the 5 days which would cancel the Notice and it was accepted by the landlord for "use and occupation only." As a result the landlord has not reinstated the tenancy. There is outstanding rent. The Tenant has 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. At the landlord's request I set the effective date of the Order for Possession for May 31, 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 April (\$1026.43 is owed including a \$25 NSF fee) and May (\$1026.43 is owed including a \$25 NSF fee) and the sum of \$2052.86 remains owing. **I granted the landlord a monetary order in the sum of \$2052.86 plus the sum of \$50 in respect of the filing fee for a total of \$2102.86.**

Security Deposit

I determined the security deposit plus interest totals the sum of \$462.50. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$1640.36.

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 08, 2014

Residential Tenancy Branch

