



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OPR, MNR, MDSD & FF

Introduction

A hearing was conducted by conference call in the presence of a representative of the landlord and in the absence of the Tenants 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 personally served on the Tenant on October 3, 2014. Further I find that the Application for Dispute Resolution/Notice of Hearing filed by the Landlord was sufficiently served on the Tenants by mailing, on October 16, 2014 by registered mail to where the tenants reside.

I ordered that the landlord's Application for Dispute Resolution be amended to include a claim for non-payment of rent for November 2014 and for an order to retain the security deposit..

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenants are entitled to an order cancelling the 10 day Notice to End Tenancy dated October 3, 2014.
- b. Whether the landlord is entitled to an Order for Possession?
- c. Whether the landlord is entitled to A Monetary Order and if so how much?
- d. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- e. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence

The parties entered into a written tenancy agreement that provided that the tenancy would start on January 15, 2010. The present rent is \$836 per month payable in advance on the first day of each month. The tenants paid a security deposit of \$400 at the start of the tenancy.

The tenant(s) failed to pay the rent for the months of September (\$155.75 is owed), October (\$836 is owed) and November (\$836 is owed) and the sum of \$1827.75 remains owing. The tenant(s) have remained in the rental unit.

Tenants' Application to Cancel the 10 day Notice to End Tenancy:

The tenants failed to attend the hearing. I determined there was no basis for cancelling the 10 day Notice to End Tenancy. As a result I ordered that the tenants' application to cancel the 10 day Notice to End Tenancy be dismissed without liberty to re-apply.

Landlord's Application - Order of Possession:

I determined the landlord was entitled to an Order for Possession. There is outstanding rent. The Tenants' application to set aside the Notice to End Tenancy has been dismissed. 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 month(s) of September (\$155.75 is owed), October (\$836 is owed) and November (\$836 is owed) and the sum

of \$1827.75 remains owing. **I granted the landlord a monetary order in the sum of \$1827.75 plus the sum of \$50 in respect of the filing fee for a total of \$1877.75.**

Security Deposit

I determined the security deposit plus interest totals the sum of \$400. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$1477.75.

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: November 19, 2014

Residential Tenancy Branch

