



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, 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 sufficiently served on the Tenants by posting on September 4, 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, by registered mail to where the tenants reside on September 18, 2014. I find the Application for Dispute Resolution filed by the Tenants was personally served on the landlord on September 9, 2014. 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?

- e. Whether the tenants are entitled to a monetary order and if so how much?
- f. Whether the tenants are entitled to recover the security deposit.

Background and Evidence

The parties entered into a written tenancy agreement that provided that the tenancy would start on January 1, 2014. The rent is \$665 per month payable on the first day of each month (including \$15 for a locker). The tenant paid a security deposit of \$325 at the start of the tenancy. The tenant(s) failed to pay the rent for the months of September, October and November and the sum of \$1995 remains owing. The tenant(s) have remained in the rental unit.

Preliminary Matter:

The Application for Dispute Resolution filed by the tenants seeks a monetary order in the sum of \$2510 including reimbursement of \$875 for one month rent in a one bedroom apartment, \$1200 moving expenses and \$435 for the security deposit. The hearing was set for March 15, 2015. The parties requested that the matter be heard today along with the landlord's application.

Settlement:

At the hearing the parties reached a settlement. The landlord agreed to forgo its claim for one month rent. The tenants agree to release the landlord from all claims raised in their Application. They asked that I record the settlement pursuant to section 63(2) as follows:

- a. The parties consent to the hearing of the tenants claim today at the same time as the landlord's claim.
- b. The parties mutually agree to end the tenancy on November 30, 2014 and they ask the arbitrator to issue an Order for Possession for that date.
- c. The landlord shall retain the security deposit.
- d. In addition the tenants shall pay to the landlord the sum of \$1000 (1 ½ month rent in the sum of \$975 plus \$25 filing fee).

- e. The tenant shall pay the landlord \$500 on November 7, 2014 and \$500 on November 21, 2014.
- f. The tenants release and discharge the landlord from all claims raised in their Application for Dispute Resolution in File #825922 and request that the arbitrator dismiss the claim without leave to re-apply.
- g. The parties acknowledged the landlord has not released the tenants from claims for possible damage to the rental unit, failure to properly clean or for rent if the tenants over-hold.

Analysis - Order of Possession:

The tenants did not file an Application to cancel the 10 day Notice to End Tenancy. 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 parties have settled the matter on the basis that I issue an Order for Possession for the end of November. **Accordingly, I granted the landlord an Order for Possession effective November 30, 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

The parties have settled the landlord's claim. I order that the landlord shall retain the security deposit. I further order that the tenant shall pay to the landlord 1 ½ months rent plus \$25 for the cost of the filing fee for a total of \$1000.

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 04, 2014

Residential Tenancy Branch

