



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 the applicant and in the absence of the respondents 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 tenants by posting on December 5, 2014. Further I find that the Application for Dispute Resolution/Notice of Hearing was personally served on the tenants on December 20, 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?

Background and Evidence

The parties entered into a written tenancy agreement that provided that the tenancy would start on June 1, 2012, end on May 31, 2013 and become month to month after that. The rent is \$1200 per month payable on the first day of each month. The tenants paid a security deposit of \$600 and pet damage deposit of \$600 for a total of \$1200 at

the start of the tenancy. The tenant(s) failed to pay the rent for the December and January and the sum of \$2400. In addition the tenants owe a strata fine of \$200. The tenant(s) continue to live in the rental unit.

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 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 December and January and the sum of \$2400. In addition the tenants owe a strata fine of \$200. I dismissed the landlord's claim for a late fee as it was set at \$20 per day which is contrary to the Residential Tenancy Act Regulations which limit a late fee to \$25 provided such sum is included in the tenancy agreement. **I granted the landlord a monetary order in the sum of \$2600 plus the sum of \$50 in respect of the filing fee for a total of \$2650.**

Security Deposit

I determined the security deposit and pet damage deposit totals \$1200. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$1450.

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: January 19, 2015

Residential Tenancy Branch

