



Dispute Resolution Services

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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 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 10 day Notice to End Tenancy was sufficiently served on the tenant by posting on March 2, 2015. Further I find that the Application for Dispute Resolution/Notice of Hearing filed by each party was sufficiently served on the other.

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling the 10 day Notice to End Tenancy?
- 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 one year fixed term written tenancy agreement that provided that the tenancy would start on May 1, 2013 and continue on a month to month basis. The present rent is \$850 per month payable in advance on the first day of each month. The tenant paid a security deposit of \$425 and a pet damage deposit of \$425 for a total of \$850 at the start of the tenancy.

The tenant(s) failed to pay the rent for the months of March (\$617 is owed) and April (\$425 is owed to April 15, 2015). In addition the tenant owes a late fee of \$25 for each of the months of March and April. The total owing including the late fees is \$1092.

The tenant(s) testified he has hired a mover and will be vacating the rental unit on April 15, 2015.

Tenant's Application:

The tenant stated he wished to withdraw his application to cancel the Notice as he is leaving the rental unit. As a result I ordered that the tenant's application be dismissed..

Analysis - Order of Possession:

I determined the landlord was entitled to an Order for Possession. There is outstanding rent. The Tenant's application to set aside the Notice to End Tenancy has been dismissed as withdrawn. 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 of the Order for Possession for April 15, 2015.

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 March and April and the sum of \$1092 remains outstanding. I dismissed the claim of the landlord for loss of rent for the period April 15, 2015 to April 30, 2015 with leave to re-apply as it is possible the landlord may find another tenant take possession on April 15, 2015 and therefore not suffer a loss. If the landlord fails to find a tenant the landlord has leave to re-apply. I granted the landlord a monetary order in the sum of \$1092 plus the sum of \$50 in respect of the filing fee for a total of \$1142.

Security Deposit

I determined the security deposit and pet damage deposit totals the sum of \$850. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$292.

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: April 10, 2015

Residential Tenancy Branch

