



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. At the request of the landlord I ordered that the Application for Dispute Resolution be amended to include a claim to keep the security deposit.

I find that the 10 day Notice to End Tenancy was personally served on the Tenant on March 9, 2015. I find that the Application for Dispute Resolution/Notice of Hearing filed by the tenant was personally served on the landlord on March 12, 2015. I find that the Application for Dispute Resolution/Notice of Hearing filed by the landlord was personally served on the landlord on March 18, 2015. 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 tenant is entitled to an order cancelling the 10 day Notice to End Tenancy dated March 9, 2015?
- 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 tenant rented the rental unit from the previous owner approximately 14 years ago. The landlord purchased the property in 2007. The landlord testified that her purchase papers indicate the tenant pay a security deposit of \$650 on April 15, 2005. The present rent is \$1571 per month payable in advance on the first day of each month. The tenant(s) failed to pay the rent for the months of February 2015 (\$1571 is owed), March (\$1571 is owed), April 2015 (\$1571 is owed) and May 2015 (\$253.58 will be owed to May 5, 2015 and the sum of \$4966.38 remains owing. The tenant(s) have remained in the rental unit. He has found alternative accommodation to moved to on May 5, 2015.

Tenant's Application:

I dismissed the tenant's application to cancel the 10 day Notice to End Tenancy as the rent is outstanding and there is no basis to cancel the Notice.

Landlord's Application - 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. Accordingly, I granted the landlord an Order for Possession. I set the effective date of the Order for Possession for May 5, 2015 given this is a long term tenancy and the tenant has found alternative accommodation to move to on that date.

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 February 2015 (\$1571 is owed), March (\$1571 is owed), April 2015 (\$1571 is owed) and May 2015 (\$253.58 will be owed to May 5, 2015 and the sum of \$4966.38 remains owing. I granted the landlord a monetary order in the sum of \$4966.38 plus the sum of \$50 in respect of the filing fee for a total of \$5016.38.

Security Deposit

I determined the security deposit plus interest totals the sum of \$673.02. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$4343.36.

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: April 15, 2015

Residential Tenancy Branch

