



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, CNL, 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. I denied the tenants' application for an adjournment. 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 two month Notice to End Tenancy and the 10 day Notice to End Tenancy was sufficiently served on the Tenants. 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 tenants are entitled to an order cancelling a two month Notice to End Tenancy dated February 28, 2015?
- b. Whether the tenants are entitled to an order dated cancelling a 10 day Notice to End Tenancy dated March 8, 2015?
- c. Whether the landlord is entitled to an Order for Possession?
- d. Whether the landlord is entitled to A Monetary Order and if so how much?
- e. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- f. 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 November 1, 2014 and continue for one year. The rent is \$1100 per month payable on the first day of each month. The tenants paid a security deposit of \$550 at the start of the tenancy.

The tenant(s) failed to pay the rent for the months of March and April and the sum of \$2200 remains owing. The tenant(s) have remained in the rental unit. They stated they intended to vacate the rental unit on April 29, 2015.

Tenants' Application:

The tenants intend to vacate the rental unit on April 29, 2015 and have no interest in reinstating the tenancy. As a result I ordered that the application of the tenant to cancel the 10 day Notice to End Tenancy and the two month Notice to End Tenancy be dismissed.

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 effective April 29, 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 2015 and the sum of \$1100 remains outstanding. I dismissed the landlord's claim for non payment of rent for the month of April as the tenants are entitled to the equivalent of one month rent under section 51 of the Act as the landlord served a 2 month Notice to End Tenancy on the tenants. **I granted the landlord a monetary order in the sum of \$1100 plus the sum of \$50 in respect of the filing fee for a total of \$1150.**

Security Deposit:

I determined the security deposit plus interest totals the sum of \$550. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$600.

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 22, 2015

Residential Tenancy Branch

