



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 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 Notice to End Tenancy was sufficiently served on the Tenants by positing on April 3, 2015. Further I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the Tenants by mailing, by registered mail to where the Tenants reside on April 28, 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 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 one year written tenancy agreement that provided that the tenancy would start on December 3, 2013. The parties entered into a second fixed term tenancy agreement on January 1, 2014. The latest fixed term tenancy agreement provides that tenancy would start on January 1, 2015 and end on December 31, 2015. The present rent is \$2153 per month payable in advance on the first day of each month. The tenant paid a security deposit of \$1050 at the start of the tenancy.

The tenant(s) failed to pay the rent when due. They presently owe \$2509 in rent for May and June. The tenant(s) continue to live in the rental unit. They have made significant payments to reduce the arrears and wish to remain the rental unit.

Analysis

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 effective July 31, 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 May and June 2015 and the sum of \$2509 remains outstanding. I determined the landlord has given sufficient notice of their intention to claim for all of last month as provided in the

Application for Dispute Resolution. **I granted the landlord a monetary order in the sum of \$2509 plus the sum of \$50 in respect of the filing fee for a total of \$2559.**

Security Deposit:

I dismissed the claim to retain the security deposit as there is a strong likelihood the arrears will be paid and the tenancy will be reinstated.

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.

Settlement:

The tenants represented they could pay the arrears and the rent due for July by the end of July. The parties agreed that if the tenants pays the arrears including the filing fee plus the rent for July by July 31, 2015 the landlord would reinstate the tenancy and would not rely on the Order for Possession.

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: June 09, 2015

Residential Tenancy Branch

