



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 a representative of the applicant and in the absence of the respondent 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.

The landlord filed an Application for Dispute Resolution on April 29, 2015. The landlord subsequently filed a second Application for Dispute Resolution on June 3, 2015 seeking the same relief with the only difference being the amount of rent owing is more. I determined the first application merged with the second and that it was appropriate to consider the second application

I find that the 10 Notice to End Tenancy was sufficiently served on the tenant by posting on May 6, 2015. Further I find that the Application for Dispute Resolution/Notice of Hearing was personally served on the tenants on June 5, 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 fixed term written tenancy agreement that provided that the tenancy would start on November 1, 2014 and end on October 31, 2015. The rent is \$1400 per month payable in advance on the first day of each month. The tenants paid a security deposit of \$700 and a pet damage deposit of \$700 at the start of the tenancy. The tenant(s) failed to pay the rent for the months of April 2015 (\$450 is owed), May 2015 (\$1400 is owed) and June 2015 (\$1400 is owed). In addition the tenants owed \$25 late fee and a \$25 NSF fee for each of the months. However, the landlord has claimed \$3300 in the Application for Dispute Resolution.. I determined I am limited to awarding the amount claimed. The tenant(s) have remained in the rental unit. They have given the landlord written notice they intend to vacate at the end of June 2015.

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. The landlord requested the Order for Possession to be effective for the end of June. **Accordingly, I granted the landlord an Order for Possession effective June 30, 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 April, May and June and the sum of \$3300 remains outstanding including late fees and NSF charges. 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 \$3300 plus the sum of \$50 in respect of the filing fee for a total of \$3350.

Security Deposit:

I determined the security deposit and pet damage deposit totals the sum of \$1400. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$1950.

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: June 15, 2015

Residential Tenancy Branch

