



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 respondents 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.

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 Notice to End Tenancy was personally served on the Tenants on May 5, 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 May 22, 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 90 day fixed term written tenancy agreement that provided that the tenancy would start on May 15, 2014 end on August 15, 2014 and become month to month after that . The rent is \$875 per month payable in advance on the first day of each month. The tenants paid a security deposit of \$435 on May 15, 2014 and a pet damage deposit of \$435 on June 15, 2014.

The tenant(s) failed to pay the rent for the months of March 2015, April 2015, May 2015, June 2015 and July 2015 and the sum of \$4375 remains outstanding. The tenant(s) continue to resides in the rental unit.

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 on 2 days notice.

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, April 2015, May 2015, June 2015 and July 2015 and the sum of \$4375 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 dismissed the claim for damage to the rental unit with liberty to re-apply as that claim is premature. It is possible the tenant may fix the damage. Further, the claim has not been sufficiently

particularized. **I granted the landlord a monetary order in the sum of \$4375 plus the sum of \$50 (reduced from the amount claimed) in respect of the filing fee for a total of \$4425.**

Security Deposit:

I determined the security deposit and the pet damage deposit totals the sum of \$870. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$3555.

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: July 03, 2015

Residential Tenancy Branch

