



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MDSD & FF

Introduction

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. An Order for Possession for non-payment of rent
- b. A monetary order for unpaid rent and damages
- c. An Order to retain the security deposit.
- d. An order to recover the cost of the filing fee

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.

I find that the Notice to End Tenancy was personally served on the Tenants on October 12, 2015. Further I find that the Application for Dispute Resolution/Notice of Hearing was personally served on the Tenants on October 28, 2015. I ordered that the Application for Dispute Resolution be amended to include a claim to retain the security deposit. 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 representative of the landlord testified the previous landlord destroyed all of the paper work and he does not know when the tenancy started. However, he started work for the employer in September 2014. There is a tenancy agreement that provides that the rent is \$817.50. However, the rent is presently \$525. The landlord holds a security deposit of \$272.50.

The tenant(s) failed to pay the rent for the months of October (\$525 is owed), November (\$525 is owed) and December (\$525 is owed). The tenants also owe \$317.50 dating back to November 2014. The total amount owed is \$1892.50.

The tenant(s) continues to live 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. I set the effective date of the Order for Possession for December 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 November 2014, October 2015, November 2015 and December 2015 and the sum of \$1892.50 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 \$1892.50 plus the sum of \$50 in respect of the filing fee for a total of \$1942.50.

Security Deposit:

I determined the security deposit plus interest totals the sum of \$272.50. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$1670.

Conclusion:

I granted an Order for Possession effective December 31, 2015. I ordered the landlord shall retain the security deposit of \$272.50. I further ordered the tenants pay to the landlord the sum of \$1672.

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.

Dated: December 23, 2015

Residential Tenancy Branch

