



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MNDC, MND, OPR, MNR, & FF

Introduction

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

- a. An order to cancel the 10 day Notice to End Tenancy dated November 1, 2015
- b. A monetary order in the sum of \$1200
- c. An order to recover the security deposit.

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 in the sum of \$3029 for unpaid rent and utilities
- c. An order to recover the cost of the filing fee

A hearing was conducted by conference call in the presence of the landlord and in the absence of the tenants 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 10 day Notice to End Tenancy was personally served on the Tenant on November 1, 2015. Further I find that the Application for Dispute Resolution/Notice of Hearing filed by the landlord served on the tenants by mailing, by registered mail to where the tenants reside on November 9, 2015. It is deemed received 5 days later..

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenants are entitled to an order cancelling the 10 day Notice to End Tenancy dated November 1, 2015?
- b. Whether the tenants are entitled to a monetary order and if so how much?
- c. Whether the tenants are entitled to an order that the landlord return the security deposit to the tenants.
- d. Whether the landlord is entitled to an Order for Possession?
- e. Whether the landlord is entitled to A Monetary Order and if so how much?

- 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 August 3, 2014 and continue on a month to month basis. The rent is \$1200 per month plus utilities payable in advance on the last day of the previous month. The tenants paid a security deposit of \$600 at the start of the tenancy.

The tenants failed to pay the rent for November (\$1200 is owed) and December (\$1200 is owed) and the sum of \$2400 remains outstanding. In addition the tenants owe the sum of \$124.31 for their share of the utilities for September, \$201.50 for their share of the utilities for October, \$201.50 for their share of the utilities for November and \$100.75 for their share of the utilities for December to December 15, 2015. The total owing is the sum of \$3028.06 remains owing.

The tenant(s) continue to reside in the rental unit.

Tenants Application:

The tenants failed to appear at the hearing. As a result I ordered that all of the claims set out in the tenants' application be dismissed without liberty to re-apply. The tenancy shall come to an end.

Order for Possession:

The Residential Tenancy Act provides that where a landlord has made an oral request for an Order for Possession at a hearing where an arbitrator has dismissed a tenant's application to set aside a Notice to End Tenancy, the arbitrator must grant an Order for Possession. The landlord made this request at the hearing. As a result 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.

Landlords' Application

I have determined the landlord is entitled to an Order for Possession based as provided above and granted the Order for Possession on 2 days notice.

Monetary Order and Cost of Filing fee:

I determined the tenant has failed to pay the rent for the month(s) of November (\$1200 is owed) and December (\$1200 is owed) and the sum of \$2400 remains outstanding. In

addition the tenants owe the sum of \$124.31 for their share of the utilities for September, \$201.50 for their share of the utilities for October, \$201.50 for their share of the utilities for November and \$100.75 for their share of the utilities for December. The claim for December's utilities was reduced to half of what was claimed as the Supreme Court of British Columbia has held that a tenant is not responsible to pay the utilities where they are no longer living in the rental unit. I ordered that the tenants pay to the landlord the sum of \$3028.06 plus \$50 for the cost of the filing fee for a total of \$3078.06.

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.

Conclusion:

In summary I dismissed the tenants' application without liberty to re-apply. I granted an Order for Possession on 2 days notice and I ordered the tenants to pay to the landlord the sum of \$3078.06.

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: December 08, 2015

Residential Tenancy Branch

