Dispute Resolution Services

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 cause
   b. A monetary order in the sum of $4925 for unpaid rent and damages
   c. An order to recover the cost of the filing fee

The Application for Dispute Resolution filed by the Tenant makes the following claims:
   a. An order to cancel the one month Notice to End Tenancy dated October 12, 2015.
   b. An order to allow a tenant to assign or sublet because the landlord's permission has been unreasonably withheld.
   c. An order that the tenant recover the cost of the filing fee

The Tenant failed to contact the telephone bridge number at the scheduled start of the hearing. The Landlord was present and ready to proceed. The telephone line conference line remained open and the phone system was monitored for ten minutes. The tenant failed to appear. I proceeded with the hearing.

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 one month Notice to End Tenancy was personally served on the Tenant on October 12, 2015. Further I find that the Landlord's Application for Dispute Resolution/Notice of Hearing was personally served on the Tenant on December 2, 2015.

Issue(s) to be Decided

The issues to be decided are as follows:

   a. Whether the tenant is entitled to an order cancelling the one month Notice to End Tenancy dated October 12, 2015?

   b. Whether the tenant is entitled to an order to allow a tenant to assign or sublet because the landlord's permission has been unreasonably withheld.
   c. Whether the tenant is entitled to recover the cost of the filing fee?
   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 September 27, 2015. The rent is $550 per month payable on the first day of each month. The tenant(s) failed to pay the rent for the months of November and December and the sum of $1100 remains owing. The tenant continues to reside in the rental unit.

Tenant's Application:
The tenant failed to appear at the hearing. As a result I order that the application of the tenant be dismissed without liberty to re-apply. The tenancy will come to an end on November 30, 2015. The landlord incorrectly set the end of tenancy date on the Notice for November 15, 2015. The Act self-corrects such a Notice to the end of the rental payment period which in this case is November 30, 2015.

Landlord's Application Analysis - Order of Possession:
I determined the landlord was entitled to an Order for Possession. The Tenant's application to set aside the Notice to End Tenancy has been dismissed without liberty to re-apply. 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:
The landlord stated she wished to withdraw her application for a monetary order on a without prejudice basis. As a result I order the application of the landlord for a monetary order be dismissed with leave to re-apply. I ordered that the tenant pay to the landlord the sum of $50 for the cost of the filing fee.

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 ordered that the tenant's application be dismissed without liberty to re-apply. I granted the landlord an Order for Possession on 2 days notice. I ordered that landlord's application for a monetary order be dismissed with leave to re-apply. I ordered the tenant pay to the landlord the sum of $50 for the cost of the filing fee.

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 18, 2015

Residential Tenancy Branch