



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. . Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent and loss of income?

Background and Evidence

The landlord gave the following testimony. The tenancy began on or about June 1, 2010. Rent in the amount of \$2280.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$1100.00. The tenant failed to pay rent in the month(s) of January and January 9, 2016 the landlord served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month(s) of February. The landlord stated that the tenant has been late in paying the rent since her marital split in June 2015. The landlord stated that the tenant has not posted a pet deposit as she claims. The landlord stated that she has not made any partial payments as she claims. The

landlord stated that he has to serve her a notice to end tenancy every month just to encourage her to pay the rent.

The tenant gave the following testimony. The tenant stated that she paid a pet deposit of \$1100.00 on top of the \$1100.00 security deposit. The tenant stated that she made a partial payment of \$500.00 in the month of January but acknowledged that the balance of the rent for January and February is outstanding. The tenant stated that there are many issues between her and the landlords and will be moving out at the end of the month regardless of the outcome of this hearing. The tenant stated that the landlords have not been truthful and she will pursue criminal fraud charges against them.

Analysis

I accept landlord's testimony and I find that the tenant was served with a notice to end tenancy for non-payment of rent. The tenant did not provide any documentation to support her claim that she paid a pet deposit of \$1100.00 or a partial rent payment in January of \$500.00. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Based on the above facts I find that the landlord is entitled to an order of possession. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

As for the monetary order, I find that the landlord has established a claim for \$4560.00 in unpaid rent. The landlord is also entitled to recovery of the \$100.00.00 filing fee. I order that the landlord retain the \$1100.00 security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$35600.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlord is granted an order of possession and a monetary order for \$3560.00. The landlord may retain the security deposit.

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: February 16, 2016

Residential Tenancy Branch

