



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MNR, MNSD, FF

Introduction

This hearing was convened by way of conference call in response to the landlord's application for an Order of Possession for Cause; for a Monetary Order for unpaid rent; an Order permitting the landlord to keep all or part of the security and pet deposit and to recover the filing fee from the tenant for the cost of this application.

The tenant and landlord attended the conference call hearing and gave sworn testimony. The landlord provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The tenant confirmed receipt of evidence. I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

At the outset of the hearing the landlord confirmed that there is now no outstanding rent and the landlord withdraws her application for a Monetary Order for unpaid rent; and Order permitting the landlord to keep all or part of the security and pet deposit

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession based on the One Month Notice to End Tenancy for Cause.

Background and Evidence

The parties agreed that this tenancy started on February 01, 2015 for a fixed term until January 31, 2016, thereafter continuing as a month to month tenancy. Rent for this unit started at \$750.00 per month and this was reduced to \$725.00 per month. Rent is due on the 1st day of each month. The tenant paid a security deposit of \$375.00 on January 23, 2015 and a pet deposit of \$150.00 on February 05, 2015.

The landlord testified that the tenant has been repeatedly late paying rent. There were six incidents of late payment throughout 2015 and rent was late in January and February, 2016. The landlord referred to her documentary evidence showing the dates the rent was paid late. The landlord testified that she served the tenant with a One Month Notice to End Tenancy on January 21, 2016. The landlord has provided a copy of the Notice in documentary evidence. This Notice indicates that the tenant has been repeatedly late paying rent and has an effective date of February 29, 2016.

The landlord testified that the tenant has paid rent for March and April, 2016 on time and this was accepted for use and occupancy only. The landlord seeks an Order of Possession and is willing to extend the date the tenant must vacate the rental unit to May 31, 2016

The tenant agreed that she has paid her rent late on many occasions due to different circumstances. The tenant also agreed that she did not file an application to dispute the Notice. The tenant testified that she would like to stay in the rental unit and would be able to now pay her rent on time.

Analysis

I have carefully considered all the evidence before me, including the sworn testimony of both parties. I am satisfied with the undisputed evidence before me that the tenant was repeatedly late paying her rent in 2015 and 2016. This alone would ensure the landlord was entitled to an Order of Possession based on the One Month Notice.

Further to this when a tenant is served with a One Month Notice to End Tenancy the tenant is provided with information on page two of that Notice about how the tenant can dispute the Notice by filing an application for Dispute Resolution. The tenant did not dispute the One Month Notice within the 10 allowable days as indicated on page two of the Notice.

Consequently, as the tenant did not file an application to dispute the Notice the tenant is presumed to have accepted the end of the tenancy pursuant to s. 47 (5) of the *Act*. The landlord is therefore entitled to an Order of Possession pursuant to s. 55 of the *Act*.

As the landlord's application has merit I find the landlord is entitled to recover the filing fee from the tenant of **\$100.00**. The landlord may retain this amount from the tenant's security deposit leaving a balance of **\$275.00** and the pet deposit of **\$150.00** which must both be dealt with at the end of the tenancy in accordance with s. 38 of the *Act*.

Conclusion

I HEREBY ISSUE an Order of Possession in favour of the landlord effective **on May 31, 2016**. This Order must be served on the Respondent. If the Respondent fails 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.

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: April 20, 2016

Residential Tenancy Branch