



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR & 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 in the sum of \$6079 for unpaid rent
- c. An order to recover the cost of the filing fee

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present. The parties acknowledged they had received the documents of the other party.

I find that the Notice to End Tenancy was served on the Tenant by posting on May 2, 2016. Further I find that the Application for Dispute Resolution/Notice of Hearing was served on the Tenant by mailing, by registered mail to where the Tenant resides on May 20, 2016.

The tenant testified that he is in the hospital recovering from a serious head operation and he requested an adjournment. The tenant testified his mail was just brought to him yesterday and he does not have access to his papers. The landlord opposed the adjournment. He testified the tenant owes \$6079 in outstanding rent and that an adjournment would unnecessarily delay matters. I determined an adjournment was not appropriate and I ordered that the hearing continue.

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 recover the cost of the filing fee?

Background and Evidence

The tenancy began in 2012. The present rent is \$6500 per month payable advance on the first day of each month. The tenant paid a security deposit of \$650 at the start of the tenancy.

The landlord testified the tenant has failed to pay the rent over the last several years and the sum of \$6079 remains outstanding. The tenant(s) disputes the amount. He testified much of the arrears should have been paid by a roommate and the landlord agreed to look to him for recovery of the outstanding sum. The tenant testified he thought he owed \$3000.

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 June 30, 2016. However, the parties agreed that if the tenant pays the rent for July in the sum of \$1300 by June 27, 2016 the landlord will not enforce the Order for Possession until July 31, 2016. The parties are agreed that in any event the tenancy will end and the Tenant must vacate the rental unit by July 31, 2016.

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:

There is a dispute as to the amount of rent owed. The landlord testified the Tenant owes \$6079. However, the landlord failed to provide an accounting. The tenant disputes the amount owed although he agreed he owed \$3000.

The Tenant stated he was not fit to continue with the hearing because of his ill health. In these unusual circumstances I determined it was appropriate to give the landlord a monetary order in the sum of \$3000 for the following (\$1300 for rent for June 2016, \$1300 for rent for May 2016, \$600 for unpaid rent prior to May 1, 2016. I also determined that it was appropriate to grant the landlord the right to re-apply for any amounts that may be owed prior to this date. I granted the landlord a monetary order in the sum of \$3000 plus the sum of \$100 in respect of the filing fee for a total of \$3100.

Conclusion:

I granted an Order for Possession effective June 30, 2016. However, the parties agreed that if the Tenant pays the rent for July in the sum of \$1300 by June 27, 2016 the landlord would not exercise its rights under the Order for Possession until July 31, 2016. The parties agreed that the tenancy would end and the Tenant would vacate the rental unit by July 31, 2016 in any event. I ordered that the Tenant pay to the Landlord the sum of \$3100.

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.

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: June 17, 2016

Residential Tenancy Branch