



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, FF, O(OP)

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- an order of possession for breach of an agreement with the landlord pursuant to section 55;
- a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony. The landlord stated that the tenant was served with the notice of hearing package via Canada Post Registered Mail on June 24, 2016. The tenant has confirmed receipt of the notice of hearing package in this manner. The landlord also served the tenant with the submitted documentary evidence in person to the tenant's son on July 2, 2016. The tenant has confirmed receipt of the landlord's submitted documentary evidence. The tenant has also confirmed that no documentary evidence was submitted by the tenant. I accept the undisputed affirmed evidence of both parties and find that both parties have been properly served as per sections 88 and 89 of the Act.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for money owed or compensation for loss of rental income and recovery of the filing fee?

Is the landlord entitled to retain all or part of the security deposit?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on January 1, 2016 on a fixed term tenancy ending on June 30, 2016 as shown by the submitted copy of the signed tenancy agreement. The monthly rent was \$1,600.00 payable on the 1st day of each month. A security deposit of \$800.00 was paid on December 21, 2015.

The landlord provided written details requesting an order of possession based upon the vacancy clause in the signed tenancy agreement. The landlord also seeks a monetary claim of \$3,200.00 for the loss of rental income for the months of July and August 2016.

The landlord provided in support of his request for an order of possession a copy of the signed tenancy agreement dated December 21, 2015. The landlord referred to section 2. Length of Tenancy in which it states that the tenancy shall end on June 30, 2016. This sections shows that both parties initialled in acknowledgement that the tenancy ends and the tenant must move out of the residential unit. The tenant argued that he was not given a copy of the signed tenancy agreement, but that he was aware of the term of the tenancy ending on June 30, 2016. The tenant also argued that he was not given a notice to end the tenancy. The landlord disputes the tenant's claim stating that a signed copy was given to the tenant and that a second copy was also provided to the tenant in June of 2016.

The landlord also stated that the tenant has failed to pay the rent for July and August of 2016 of \$1,600.00 per month. The tenant confirmed that he has not paid the rent for July and August, but that he is able to.

Analysis

I accept the undisputed affirmed evidence of the landlord and find that I prefer the evidence of the landlord over that of the tenant. Both parties have confirmed that this

tenancy began on January 1, 2016 to end on June 30, 2016. This is confirmed by the submitted copy of the signed tenancy agreement which indicated that both parties initialled in confirmation of the length of tenancy. As such, the landlord has established that the tenancy ended on June 30, 2016 as agreed upon. As that has not occurred, I find that the landlord is entitled to a two-day order of possession.

As for the monetary claim, I accept the undisputed affirmed evidence of both parties. The landlord has provided undisputed affirmed evidence that the tenant is still occupying the rental unit in contravention of the signed tenancy agreement and has not paid rent for July and August of 2016 at \$1,600.00 per month. The tenant has confirmed that no rent has been paid for those two months. As such, the landlord has established a monetary claim of \$3,200.00.

The landlord applied to keep the tenant's \$800.00 security deposit. I allow the landlord to retain the security deposit in partial satisfaction of the monetary award. No interest is payable over this period.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I issue a monetary order in the landlord's favour in the amount of \$2,500.00 under the following terms:

Item	Amount
Unpaid July Rent	\$1,600.00
Unpaid August Rent	\$1,600.00
Offset Security Deposit	-800.00
Recovery of Filing Fee	100.00
Total Monetary Order	\$2,500.00

The landlord is provided with these orders in the above terms and the tenant(s) must be served with this order as soon as possible. Should the tenant(s) fail to comply with these orders, these orders may be filed in the Small Claims Division of the Provincial Court and enforced as orders of that Court.

The landlord is provided with a formal copy of an order of possession. Should the tenant(s) fail to comply with this order, this order may be filed and enforced as an order of the Supreme Court of British Columbia.

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: August 09, 2016

Residential Tenancy Branch

