



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, CNR, ERP, OLC, PSF,RP, OPR, MNR, MDSD & FF

Introduction

The Application for Dispute Resolution filed by the Tenant makes the following claims:

- a. An order to cancel the 10 day Notice to End Tenancy dated July 27, 2016
- b. An order to cancel a one month Notice to End Tenancy dated July 28, 2016
- c. A monetary order in the sum of \$200
- d. An order that the landlord make emergency repairs.
- e. An order that the landlord provide services or facilities required by law
- f. An order that the landlord comply with the Act, regulation and/or the tenancy agreement
- g. An order that the landlord make repairs.

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. An Order for Possession for cause and for non-payment of rent
- b. A monetary order in the sum of \$3830.09 for unpaid rent and utilities
- c. An order to retain the security deposit
- d. 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. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the 10 day Notice to End Tenancy was served on the Tenant by posting on July 27, 2016. I find that the one month Notice to End Tenancy was served on the Tenant by posting on July 28, 2016. The parties acknowledged that each was served with a copy of the Application for Dispute Resolution filed by the other.

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling the 10 day Notice to End Tenancy dated July 27, 2016?
- b. Whether the tenant is entitled to an order cancelling one month Notice to End Tenancy dated July 28, 2016?
- c. Whether the tenant is entitled to an order that the landlord comply with the Act, regulation and/or the tenancy agreement?
- 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 retain all or a portion of the security deposit/pet deposit?
- g. 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 March 1, 2016. The rent is \$1200 per month payable in advance on the first day of each month. The tenant also agreed to pay the water bill. The tenant paid a security deposit of \$600 at the start of the tenancy.

The tenant(s) failed to pay the rent for the months of July 2016, August 2016 and September 2016 and the sum of \$3600 remains owing. The tenant(s) have remained in the rental unit. However, the tenant stated that she wished to vacate by October 1, 2016.

Tenant's Application:

I dismissed the Tenant's application to cancel the 10 day Notice to End Tenancy. The landlord used the correct form. The tenant does not dispute the rent is owed. The tenant has found alternative accommodation and will be moving by October 1, 2016.

Order for Possession:

The Residential Tenancy Act provides that where an arbitrator has dismissed a tenant's application to cancel a Notice to End Tenancy, the arbitrator must grant an Order for Possession. As a result I granted the landlord an Order for Possession. With the consent of both parties I set the effective date of the Order for Possession for October 1, 2016.

I dismissed the balance of the tenant's claim with the exception of the monetary claim as the tenant is vacating the rental unit and these issues are moot.

The tenant seeks a monetary order in the sum of \$200 for the cost of replacing a fridge. She testified the landlord promised to find her a replacement fridge at the start of the tenancy. However, the landlord failed to obtain one. The present fridge was no longer working. At the end of July she purchased a second hand fridge for the sum of \$200 including \$75 for delivery. She acknowledged she did not ask the landlord for a fridge at that stage. The landlord testified she does not want the fridge and the other fridge was functioning adequately. I determined the tenant does not have a claim for the cost of the fridge. The landlord did not agree to reimburse her for the fridge. The tenant purchased the fridge without making a request to the landlord. This does not qualify as an emergency repair as the tenant failed to make the request of the landlord.

In summary, I ordered that the claims of the tenant be dismissed without leave to re-apply.

Landlord's Claims: Order of Possession:

For the reasons set out above I determined the landlord was entitled to an Order for Possession. With the consent of both parties I set the effective date of the Order for Possession for October 1, 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:

I determined the tenant has failed to pay the rent for the month(s) of July 2016, August 2016 and September 2016 and the sum of \$3600 remains outstanding. I determined the landlord has given sufficient notice of their intention to claim for all of last month as provided in the Application for Dispute Resolution. In addition the tenant owes the sum of \$223.09 for an unpaid utility bill with the City of Abbotsford for the billing periods March/April 2016 and May/June 2016. I granted the landlord a monetary order in the sum of \$3830.09 plus the sum of \$100 in respect of the filing fee for a total of \$3930.09.

Security Deposit:

I determined the security deposit plus interest totals the sum of \$600. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$3330.09.

Conclusion:

In summary I dismissed the tenant's application. I granted an Order for Possession effective October 1, 2016. I ordered that the Landlord shall retain the security deposit of \$600. In addition I ordered that the Tenant pay to the Landlord the sum of 3330.09

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: September 22, 2016

Residential Tenancy Branch