



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MNDC, OPR, MNR & 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 September 6, 2016
- b. A monetary order in the sum of \$49.25 to recover a rent increase not permitted by the Act

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 \$1960 for unpaid
- 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. 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. The parties acknowledged they had received the documents of the other party.

I find that the 10 day Notice to End Tenancy was personally served on the Tenants on September 6, 2016. Further I find that the Application for Dispute Resolution/Notice of Hearing filed by the Tenants was personally served the Landlord on September 9, 2016. I find that the Application for Dispute Resolution/Notice of Hearing filed by the Landlord was personally served on the Tenants on September 27, 2016. With respect to each of the applicant's claims I find as follows:

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 September 6, 2016?
- b. Whether the tenants are entitled to a monetary order and if so how much?
- c. Whether the landlord is entitled to an Order for Possession?
- d. Whether the landlord is entitled to A Monetary Order and if so how much?
- e. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence

The parties entered into a month to month written tenancy agreement that provided that the tenancy would start on March 1, 2015. The rent is \$980 per month payable on the first day of each month. The tenants paid a security deposit of \$475 at the start of the tenancy.

The tenant(s) failed to pay the rent for the months of September and October and the sum of \$1960 remains owing. The tenant(s) have remained in the rental unit.

Tenants' Application:

I dismissed the Tenants' application to cancel the 10 day Notice to End Tenancy. The Notice is on the approved form. The tenants do not dispute the rent is owed. The tenants testified the landlord agreed to waive the claim for September's rent if they vacated by the end of September. The tenants failed to vacate and that is not a valid defense as a result.

As a result I dismissed the Tenants' application to cancel the 10 day Notice to End Tenancy without leave to re-apply. The tenancy shall end. I dismissed the tenants' application for a monetary order as the tenants failed to present evidence to prove this claim.

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.

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.

Landlords Application - Order of Possession:

For the reasons set out above I determined the landlord was entitled to an Order for Possession. There is outstanding rent. The Tenants' application to cancel the 10 day Notice to End Tenancy has been dismissed. Accordingly, I granted the landlord an Order for Possession effective on 7 days notice as agreed by the parties.

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 September and October and the sum of \$1960 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. I granted the landlord a monetary order in the sum of \$1960 plus the sum of \$100 in respect of the filing fee for a total of \$2060.

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.

Conclusion:

In conclusion I dismissed the tenants' application for an order to cancel the 10 day Notice to End Tenancy and a monetary order. I granted an Order for Possession on 7 days after service. I ordered that the Tenants pay to the Landlord the sum of \$2060.

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: October 31, 2016

Residential Tenancy Branch