



Dispute Resolution Services

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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 \$1250 for unpaid rent and damages
- 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 ordered the Application for Dispute Resolution be amended to include a claim for loss of rent for September 2016.

I find that the 10 day Notice to End Tenancy was served on the Tenant by posting on August 4, 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 September 1, 2016.

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 parties entered into a one year fixed term written tenancy agreement that provided that the tenancy would start on April 1, 2016 and end on March 31, 2017. The rent is \$1200 per month payable on the first day of each month. The tenant paid a security deposit of \$600 at the start of the tenancy.

The landlord testified they had difficulties with the conduct of the tenant and the strata council. At the end of July the parties exchanged e-mails about the tenant vacating at the end of August. The landlord testified the tenant subsequently told the landlord she was not intending to leave at the end of August.

The tenant failed to pay the rent for August when due. The tenant testified she vacated the rental unit at the end of August but she took the keys with her. The landlord was not aware the tenant had vacated until September 15, 2016. The landlord has not attempted to re-rent the rental unit as contractors have made renovations and he intends to sell it.

Analysis - Order of Possession:

It is no longer necessary to consider the landlord's claim for an Order for Possession as the landlord has regained possession of the rental unit.

Analysis - Monetary Order and Cost of Filing fee:

I determined the tenant has failed to pay the rent for the month(s) of August and the sum of \$1200 remains outstanding. The Application for Dispute Resolution makes a claim for \$50 for non payment of rent for June. I dismissed this claim as the landlord failed to lead evidence of this at the hearing. I further determined the landlord is entitled to half a months rent for September or the sum of \$600. The tenant failed to advise the landlord she had vacated and she kept the keys. The landlord only became aware she had left on September 15 and was delayed 15 days with his renovations. The Act imposes an obligation on a party to mitigate their loss. The landlord has not attempted to re-rent the premises and is not entitled to a claim for loss of rent for the period after September 15, 2016. In summary I ordered that the Tenant pay to the Landlord the sum of \$1800 plus \$100 for the cost of the filing fee for a total of \$1900.

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: October 21, 2016

Residential Tenancy Branch