



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OPR, MNR, MDSD & 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 \$735.13 for unpaid rent and utilities
- c. An order to recover the cost of the filing fee

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

- a. An order cancelling a 2 month Notice to End Tenancy
- b. An order to cancel the 10 day Notice to End Tenancy dated August 6, 2015
- c. An order to recover the cost of the filing fee
- d. A monetary order in the sum of \$500
- e. An order authorizing the Tenant to change the locks to the rental unit.
- f. An order suspending or setting conditions on the landlord's right to enter the rental unit.
- g. An order for repairs
- h. An order to reduce rent for repairs, services or facilities agreed upon but not provided.

A hearing was conducted by conference call in the presence of the landlord and in the absence of the Tenant although duly served. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

I find that the 10 day Notice to End Tenancy was personally served on the Tenant on December 5, 2016. The landlord testified she has not served a 2 month Notice to End Tenancy in the approved form on the Tenant. Further I find that the Landlord's Application for Dispute Resolution/Notice of Hearing was personally served on the Tenant on December 16, 2016. The landlord failed to serve the Amendment to an Application for Dispute Resolution after it had been filed. 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 December 5, 2016?
- b. Whether the tenant is to an order cancelling a 2 month Notice to End Tenancy?
- c. Whether the Tenant is entitled to a monetary order and if so how much?
- d. Whether the Tenant is entitled to an order authorizing the Tenant to change the locks to the rental unit?
- e. Whether the Tenant is entitled to an order suspending or setting conditions on the Landlord's right to enter the rental unit
- f. Whether the Tenant is entitled to a repair order?
- g. Whether the Tenant is entitled to an order reducing rent for repairs, services or facilities agreed upon but not provided?
- h. Whether the tenant is entitled to recover the cost of the filing fee?
- i. Whether the landlord is entitled to an Order for Possession?
- j. Whether the landlord is entitled to A Monetary Order and if so how much?
- k. 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 November 7, 2016. The rent is \$650 per month payable on the first day of each month. The tenant paid a security deposit of \$325 and a pet damage deposit of \$200.

The tenant failed to pay the rent for December 2016 and January 2017 and the sum of \$1300 remains outstanding. The tenant continues to reside in the rental unit.

Tenant's Application:

The Tenant failed to attend the hearing. The landlord was present and ready to proceed. I ordered that the application of the Tenant by dismissed without liberty to re-apply.

I accept the testimony of the landlord that she has not served a 2 month Notice to End Tenancy in the approved form on the Tenant. I dismissed the Tenant's claim that he was entitled to the equivalent of one month rent free. The obligation of the landlord to pay the equivalent of one month rent to the Tenant under section 51(1) of the Act

requires the service of a 2 month Notice to End Tenancy in the approved form. It is not triggered by comments or notices the landlord may make that she or a close family member intends to move as such comments or notices would not provide the basis for the landlord to obtain an Order of Possession in unless the approved form is used.

I determined that the landlord has established sufficient cause to end the tenancy. The tenant owes 2 months rent. The approved 10 day Notice was used. As a result I dismissed the tenant's application to cancel the 10 day Notice to End Tenancy. I order that the tenancy shall end.

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 on 2 days notice..

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.

Landlord's Application - Order of Possession:

For the reasons set out above I determined the landlord is entitled to an Order of Possession.

Analysis - Monetary Order and Cost of Filing fee:

I determined the tenant has failed to pay the rent for the month(s) of December 2016 (\$650 is owed) and January 2017 (\$650 is owed) and the sum of \$1300 remains outstanding. I dismissed the landlord's claim for the tenant's share of the Hydro and internet bill with liberty to re-apply as the landlord failed to prove she served a filed copy of the Amendment to Dispute Resolution on the Tenant. I granted the landlord a monetary order in the sum of \$1300 plus the sum of \$100 in respect of the filing fee for a total of \$1400.

Conclusion:

I dismissed the tenant's application without leave to re-apply. I granted an Order of Possession on 2 days notice. I ordered that the Tenant pay to the Landlord the sum of \$1400.

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: January 16, 2017

Residential Tenancy Branch