



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MDSD & FF

Introduction

The Application for Dispute Resolution filed by the landlord seeks the following:

- a. An Order for Possession for cause
- b. A Monetary Order in the sum of \$21,591
- 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.

I find that the one month Notice to End Tenancy was personally served on the Tenants on February 2, 2017. Further I find that the Application for Dispute Resolution/Notice of Hearing was personally served on the Tenants on February 9, 2017. 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 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 written tenancy agreement that provided that the tenancy would start on March 1, 2014. The present rent is \$3000 per month payable in advance on the first day of each month. The tenants paid a security deposit of \$1425 at the start of the tenancy.

The Notice to End Tenancy relies on the following grounds:

- Tenant has engaged in illegal activity that has, or is likely to:
 - jeopardize a lawful right or interest of another occupant or the landlord

- Tenant has assigned or sublet the rental unit/site without landlord's written consent

The landlord submits the tenant is operating a tutoring business from the rental premises which has resulted in the insurance company voiding the insurance.

The landlord testified as follows:

- They have had cheap insurance for the last 20 years.
- The premiums paid for the 2015 insurance was \$1562. and for 2016 insurance was \$1721.
- The quotation the landlord has for the insurance for 2017 was \$3275 conditional on the tenants providing information from the tenants which they have failed to provide.
- The insurance company has cancelled their insurance effective February 28, 2017 because the tenants failed to provide information they have liability insurance.

The tenants dispute the landlord's claim and testified as follows:

- They operated a tutoring system at a location outside of the home until the end of June 2016.
- They originally intended to dispute the Notice to End Tenancy on the basis the landlord does not have grounds. However, they decided they would comply with the Notice and vacate at the end of March.
- The document produced by the landlord indicates the landlord cancelled the insurance and that the original policy was lost.

Analysis - Order of Possession:

I determined the landlord was entitled to an Order for Possession. The Tenant(s) have not made an application to set aside the Notice to End Tenancy and the time to do so has expired. In such situations the Residential Tenancy Act provides the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit by that date. As the tenants have not disputed the Notice it is not necessary to consider whether the landlord has grounds to end the tenancy on the merits. Accordingly, I granted the landlord an Order for Possession effective March 31, 2017. .

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

With respect to each of the landlord's claims I find as follows:

- a. I dismissed the landlord's claim of \$33.34 for a corporate search. This claim relates to the cost of preparing for litigation. The only jurisdiction an arbitrator has relating to costs is the cost of the filing fee.

- b. The landlord claimed the sum of \$15,000 for an order that the Tenants provide a deposit if their insurance is declined. There is no basis for this claim and as a result this claim is dismissed. Section 19 of the Act provides as follows:

Limits on amount of deposits

- 19** (1) A landlord must not require or accept either a security deposit or a pet damage deposit that is greater than the equivalent of 1/2 of one month's rent payable under the tenancy agreement.

The landlord already holds a deposit that complies with the Act.

- c. I dismissed the landlord's claim on \$1562 for the 2015 insurance and \$1721 for the 2016 insurance. The landlord did not suffer a loss during this time period. The insurance company did not deny a claim made by the landlord during this period as the landlord did not suffer a loss and did not make a claim.
- d. I dismissed the landlord's claim of \$3275 for the 2017 insurance. The landlord did not suffer a loss during this time period. The insurance company did not deny a claim made by the landlord during this period as the landlord did not suffer a loss and did not make a claim. Further, from the evidence presented by the landlord the landlord failed to prove the insurance company cancelled the insurance as the documentation indicates the landlord cancelled the insurance on their own.

In summary I dismissed the landlord's claim for a monetary order.

Conclusion:

I granted an Order of Possession effective March 31, 2017. I dismissed the landlord's monetary claim. The landlord has been successful with their claim for an Order of Possession but unsuccessful with their monetary claim. I determined the landlord is entitled to half of the cost of the filing fee. I ordered that the Tenants pay to the landlord the sum of \$50 such sum may be deducted from the security deposit.

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: March 10, 2017

Residential Tenancy Branch

