Dispute Resolution Services

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 $4600 for unpaid rent
   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 the applicants and in the absence of the respondents 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 ordered the Application for Dispute Resolution be amended to include a claim of $1150 for non-payment of rent for the period April 1, 2017 to April 15, 2017.

I find that the 10 day Notice to End Tenancy was personally served on the Tenants on February 27, 2017. Further I find that the Application for Dispute Resolution/Notice of Hearing was served on the Tenants by mailing, by registered mail to where the Tenants reside on March 18, 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 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 $2300 per month payable on the first day of each month. The tenants paid a security deposit of $1150 at the start of the tenancy.

The tenant(s) failed to pay the rent for the months of February 2017 ($2300 is owed), March 2017 ($2300 is owed) and April 2017 ($1150 is owed to April 15, 2017) and the sum of $5750 remains owing. The tenant(s) continue to reside in the rental unit.

Analysis - Order of Possession:

I determined the landlord was entitled to an Order for Possession. There is outstanding rent. 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. Accordingly, 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.

Analysis - Monetary Order and Cost of Filing fee:

I determined the tenant has failed to pay the rent for the month(s) of February 2017 ($2300 is owed), March 2017 ($2300 is owed) and April 2017 ($1150 is owed to April 15, 2017) and the sum of $5750 remains owing. I granted the landlord a monetary order in the sum of $5750 plus the sum of $100 in respect of the filing fee for a total of $5850.

Conclusion:

I granted an Order of Possession on 2 days notice. In addition I ordered that the Tenant(s) pay to the Landlord(s) the sum of $5850.

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 in final and binding on both parties.

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: April 12, 2017

_____
Residential Tenancy Branch