



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD & FF

Introduction

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

- a. An Order for Possession pursuant to a 2 month Notice to End Tenancy for landlord use.
- b. A monetary order in the sum of \$2700 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 a representative of the applicant and in the absence of the respondent 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 2 month Notice to End Tenancy was personally served on the Tenant on February 27, 2017. Further I find that the Application for Dispute Resolution/Notice of Hearing was personally served on the tenant on May 2, 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 retain all or a portion of the security deposit/pet deposit?
- d. 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 September 1, 2016. The rent is \$900 per month payable on the first day of each month. The tenant paid a security deposit of \$500 at the start of

the tenancy. The tenant(s) failed to pay the rent for the months of April 2017 (\$900 is owed), May 2017 (900 is owed) and June (\$450 is owed to June 15, 2017). The tenant(s) have remained in the rental unit.

Analysis - Order of Possession:

I determined the landlord was entitled to an Order for Possession. The landlord served a 2 month Notice to End Tenancy on the tenant on February 27, 2017. 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. I set the effective date of the Order of Possession for June 15, 2017 to allow for the orderly winding up of the tenancy.

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:

The tenant has failed to pay the rent for April 2017 (\$900 is owed), May 2017 (900 is owed) and June (\$450 is owed to June 15, 2017) and the sum of \$2250 is outstanding. However, the landlord served 2 month Notice to End Tenancy on the tenant and the tenant is entitled to the equivalent of 1 month rent under section 51(1) of the Act or the sum of \$900. I determined the landlord is entitled to \$1350 for outstanding rent after deducting the \$900 referred to above. I granted the landlord a monetary order in the sum of \$1350 plus the sum of \$100 in respect of the filing fee for a total of \$1450.

Security Deposit:

I determined the security deposit plus interest totals the sum of \$500. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$950.

Conclusion:

I ordered that the Landlord shall retain the security deposit of \$500. In addition I further ordered that the Tenant(s) pay to the Landlord(s) the sum of \$950.

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 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: June 05, 2017

Residential Tenancy Branch