



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MND, MNR, MNSD, OPL

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
- b. A monetary order in the sum of \$4203 for unpaid rent and unpaid utilities
- 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 applicant and in the presence of one of the respondents. 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 2 month Notice to End Tenancy was personally served on the Tenants on February 26, 2017. Further I find that the Application for Dispute Resolution/Notice of Hearing was served on each of the Tenants by mailing, by registered mail to where the tenants reside on June 17, 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 tenancy began on November 1, 2015 when the parties entered into a month to month tenancy. The rent is \$1400 per month payable on the first day of each month. The tenant paid a security deposit of \$700 at the start of the tenancy.

The landlord served a 2 month Notice to End Tenancy on the Tenants in person on February 26, 2017. The provided an April 30, 2017 end of tenancy date. The Tenants did not dispute that Notice to End Tenancy.

The tenants have over-held as they were not able to find alternative accommodation. They owe rent in the sum of \$1400 for the months of May 2017, June 2017 and July 2017. The tenant DS has made payments of \$350, \$115 and \$240 during this period for a total of \$705. The balance that is owed for May, June and July is \$3495.

The landlord further testified the tenants agreed to pay 70% of the utilities. He produced a utility bill dated May 5, 2017 for the period February 20, 2017 to April 19, 2017 in the sum of \$708.32. The tenants' share of that bill (which has been paid by the landlord) is \$495.82. In total the landlord has established a claim against the tenants in the sum of \$3990.82. 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. The landlord served a 2 month Notice to End Tenancy on the Tenants in person on February 26, 2017. That Notice set the end of tenancy for April 30, 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 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 May 2017, June 2017 and July 2017. The tenant DS has made payments of \$350, \$115 and \$240 during this period for a total of \$705. The balance that is owed for May, June and July

2017 is \$3495. In addition the landlord has established a claim against the Tenants in the sum of \$495.82 for unpaid utilities.

I granted the landlord a monetary order in the sum of \$3990.82 plus the sum of \$100 in respect of the filing fee for a total of \$4090.82.

Security Deposit:

I determined the security deposit plus interest totals the sum of \$700. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$3390.82.

Conclusion:

I granted an Order of Possession on 2 days notice. I ordered that the Landlord shall retain the security deposit of \$700. In addition I further ordered that the Tenant(s) pay to the Landlord(s) the sum of \$3390.82.

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: July 13, 2017

Residential Tenancy Branch