



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OPC MNR MNDC MNSD FF

Introduction This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- an order of possession for cause pursuant to section 55;
- a monetary order for unpaid rent and loss pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing and was given a full opportunity to provide affirmed testimony, to present evidence and to make submissions.

The landlord testified that rent has been paid up in full until the end of August 2017 therefore he is withdrawing the application for unpaid rent and loss of rent and would be willing to extend the occupancy of the rental unit until this date.

Issues

Is the landlord entitled to an order of possession for cause?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The tenancy began on February 23, 2010 with a current monthly rent of \$820.31 payable on the 1st day of each month. The tenants paid a security deposit of \$350.00 at the start of the tenancy which the landlord continues to hold.

The landlord testified that on March 17, 2017 he served the tenant with the 1 Month Notice to End Tenancy for Cause by posting a copy to the door of the rental premises. The landlord testified that the tenants and landlord subsequently entered into a mutual agreement to extend the effective date of the 1 Month Notice from April 30, 2017 to May 31, 2017. The tenants were issued receipts for use and occupancy only for rent received after this date.

The tenants acknowledged service of the 1 Month Notice. The tenants did not file an application to dispute the 1 Month Notice. The tenants testified that they have paid rent in full and would like to continue living in the rental unit.

Analysis

I am satisfied that the tenants were served with the 1 Month Notice to End Tenancy for Cause on March 17, 2017.

Pursuant to section 47 of the *Act*, the tenant may make a dispute application within ten days of receiving the 1 Month Notice. If, as in the present case, the tenant does not make an application for dispute within ten days, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice, April 30, 2017. The parties subsequently agreed to extend this date to May 31, 2017. I find the landlord has only accepted payments after this date for use and occupancy only and issued receipts to the tenants accordingly which did not re-instate the tenancy.

I find that the Notice issued by the landlord complies with the requirements of Section 52 of the *Act*, accordingly, the landlord is granted an Order of Possession pursuant to section 55 of the *Act*.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application.

The landlord continues to hold a security deposit of \$350.00. I allow the landlord to retain \$100.00 from the security deposit in full satisfaction of the monetary award pursuant to section 38 of the *Act*.

Conclusion

I grant an Order of Possession to the landlord effective **August 31, 2017**. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: August 17, 2017

Residential Tenancy Branch