



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MNSD, FF, MNR, MNSD,OPR, FF

Introduction

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

- a. An order to cancel the 10 day Notice to End Tenancy dated June 23, 2017
- b. An order the return of their security deposit.
- c. An order that the tenant recover the cost of the filing fee

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 \$3600 for unpaid
- 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 landlord and in the absence of the Tenants. 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 10 day Notice to End Tenancy was sufficiently served on the Tenants on June 23, 2017. Further I find that the Application for Dispute Resolution/Notice of Hearing was personally served on AW on July 10, 2017. However, the tenant failed to sufficiently serve NS. As a result I dismissed the claim against NS. The landlord has liberty to re-apply. 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 tenants are entitled to an order cancelling the 10 day Notice to End Tenancy dated June 23, 2017.
- b. Whether the tenants are entitled to an order to retain the security deposit?
- c. Whether the tenants are entitled to recover the cost of the filing fee?

- d. Whether the landlords are entitled to an Order for Possession?
- e. Whether the landlords are entitled to A Monetary Order and if so how much?
- f. Whether the landlords are entitled to retain all or a portion of the security deposit/pet deposit?
- g. Whether the landlords are entitled to recover the cost of the filing fee?

Background and Evidence

The parties entered into a tenancy agreement that provided that the tenancy would start on November 12, 2015. The rent is \$1800 per month payable on the first day of each month. The tenants paid a security deposit of \$900 at the start of the tenancy. The tenant(s) failed to pay the rent for the months of June and July 2017 and the sum of \$3600 is outstanding. The landlord became aware the tenants had vacated the rental unit on August 15, 2017 after the police reported it had been abandoned. The landlord claims \$900 for the period August 1, 2017 to August 15, 2017.

Tenant's Application:

The Tenants failed to appear at the hearing. As a result I ordered that the application of the Tenants be dismissed without liberty to re-apply.

Order for Possession:

The Residential Tenancy Act provides that where an arbitrator has dismissed a tenant's application to cancel a Notice to End Tenancy, the arbitrator must grant an Order for Possession. As a result I granted the landlord an Order for Possession forthwith.

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.

Landlord's Application - Order of Possession:

For the reasons set out I above I granted an Order of Possession.

Analysis - Monetary Order and Cost of Filing fee:

The landlord failed to sufficiently serve NS for the purpose of obtaining a monetary order. As a result I ordered that the application against NS be dismissed with liberty to re-apply.

The landlord served AW in person. I determined the tenants have failed to pay the rent for the month(s) of June 2017, July 2017 and August 1, 2017 to August 15, 2017 and

the sum of sum of \$4500 remains outstanding. I granted the landlord a monetary order in the sum of \$4500 plus the sum of \$100 in respect of the filing fee for a total of \$4600.

Security Deposit:

I determined the security deposit plus interest totals the sum of \$900. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$3600.

Conclusion:

I dismissed the Tenants application without leave to re-apply. I granted an Order of Possession. I ordered that the landlords shall retain the security deposit of \$900. I further order that the Tenant AW pay to the landlord the sum of \$3700.

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 the 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: August 28, 2017

Residential Tenancy Branch