



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 for non-payment of rent
- b. A monetary order in the sum of \$10,000 for unpaid rent and damages
- 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 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 10 day Notice to End Tenancy was personally served on the Tenant on June 21, 2017. Further I find that the Application for Dispute Resolution/Notice of Hearing was personally served on the Tenant on July 4, 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 7 month fixed term written tenancy agreement that provided that the tenancy would start on June 1, 2017. The rent is \$2400 per month payable on the first day of each month. The tenant paid a security deposit of \$1200 at the start of the tenancy.

The tenant's cheque for the security deposit was returned NSF. The landlord provided the following accounting:

- The tenant(s) failed to pay the rent for the months of June 2017, July 2017 and August 2017 and the sum of \$7200 is owed.
- \$179 for Hydro to August 9, 2017
- \$206 for Fortis gas
- \$150 for Internet service
- \$150 for landscaping work that the tenant failed to do.

The charges against the tenant total \$7885. The tenant made a \$3700 payment in August. Thus the total owing is \$4185.

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:

After deducting the \$3700 payment made by the Tenant in August I determined the Tenant owes the landlord the sum of \$4185 for rent and other charges. I determined the landlord has given sufficient notice of their intention to claim for all of last month as provided in the Application for Dispute Resolution. I granted the landlord a monetary order in the sum of \$4185 plus the sum of \$100 in respect of the filing fee for a total of \$4285.

Security Deposit:

The cheque for the security deposit was returned NSF. As a result there is no security deposit for the landlord to apply against the monetary order.

Conclusion:

I granted an Order of Possession on 2 days notice. I ordered that the Tenant(s) pay to the Landlord(s) the sum of \$4285.

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: August 29, 2017

Residential Tenancy Branch