



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, OPL, MNR, MDSD & FF

Introduction

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

- a. An order to cancel the 2 month Notice to End Tenancy dated April 29, 2017
- b. A monetary order although the amount is not stated
- c. An order for the return of the security deposit
- d. 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 pursuant to a 2 month Notice to End Tenancy
- b. A monetary order in the sum of \$2500 for unpaid rent
- c. An order to recover the cost of the filing fee

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. The parties reached a settlement.

I find that the 2 month Notice to End Tenancy was personally served on the Tenant on April 29, 2017. Further I find that the Application for Dispute Resolution/Notice of Hearing filed by the Tenants on June 16, 2017 was served on the landlords by mailing, by registered mail to where the landlords reside on August 2, 2017. I find that the Application for Dispute Resolution and Amendment to the Application for Dispute Resolution filed by the landlords was served on the Tenants on August 12, 2017.

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenants are entitled to an order cancelling the 2 month Notice to End Tenancy dated April 29, 2017?
- b. Whether the tenants are entitled to a monetary order and if so how much?
- c. Whether the tenants are entitled to an order for the return of the security deposit?
- d. Whether the tenant is entitled to recover the cost of the filing fee?
- e. Whether the landlord is entitled to an Order for Possession?
- f. Whether the landlord is entitled to A Monetary Order and if so how much?
- g. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence

The parties entered into a written tenancy agreement that provided that the tenancy would start on February 1, 2011. The rent is \$1200 per month payable on the first day of each month. The tenant paid a security deposit of \$600 at the start of the tenancy.

On April 29, 2017 the tenants were served with a 2 month Notice to End Tenancy that set the end of tenancy for July 1, 2017. The tenants took their right to the equivalent on one month rent under section 51(1) of the Act and applied this to the rent for June.

The tenants continue to reside in the rental unit. They have not paid the rent for July 2017 and August 2017. The parties acknowledge when the rent for September is included the tenants owe the landlords \$3600.

Tenant's Application:

I dismissed the Tenant's application to cancel the 2 month Notice to End Tenancy. The Notice was on the approved government form. The parties have reached a settlement with respect to the end of the tenancy which will be set out at the end of this decision. In order to facilitate the settlement I granted an Order of 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.

I dismissed the tenants' claim for a monetary order as they failed to present evidence to support this claim.

I dismissed the tenants claim for the return of the security deposit with liberty to re-apply as that claim is premature. The Act provides the landlord has 15 days from the later of the end of the tenancy or the date the landlord receives the tenants' forwarding address in writing to reach a settlement with the tenants or to file a claim to keep the security deposit unless the landlord has a monetary order which can be applied against the security deposit.

Order of Possession:

The parties reached a settlement on the end of tenancy which is set out below. In order to facilitate that settlement I issued an Order of Possession on 2 days notice.

Analysis - Monetary Order and Cost of Filing fee:

The tenants acknowledged they owe the sum of \$1200 per month for rent for July and August for a total of \$2400. The tenants consented to the issuance of a monetary order in the sum of \$3600 which will include the rent for September. As a result I ordered the Tenants pay to the Landlords the sum of \$3600.

Settlement:

During the hearing the parties reached a settlement and they asked that I record the settlement pursuant to section 63(2) of the Residential Tenancy Act as follows:

- a. The parties mutually agree that the tenancy will end on September 30, 2017 at the latest and that the tenants must vacate the rental unit on or before that date.
- b. The parties request the arbitrator grant an Order of Possession on 2 days notice and a monetary order in favor of the landlord in the sum of \$3600 for unpaid rent for July, August and September 2017.
- c. The tenants represent they will make the following payments by depositing them in the landlords' bank account as they have down in the past:
 - The sum of \$1200 on or before August 31, 2017.

- The sum of \$1200 on or before September 15, 2017.
 - The sum of \$1200 on or before September 30, 2017.
- d. The landlords agree that if the tenants make the payments as provided above the landlords shall not take steps to enforce the monetary order and the Order of Possession until September 30, 2017. If the tenants fail to make any one of the payments as provided above the landlords have the right to enforce the monetary order and Order of Possession without further notice.

Conclusion:

As a result of the settlement I granted an Order of Possession on 2 days Notice. I ordered that the Tenants pay to the Landlords the sum of \$3600. .

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.

The tenants claim for the return of the security was dismissed with liberty to re-apply as that claim is premature. The tenants claim for a monetary order and to recover the cost of the filing fee is dismissed without leave to re-apply. The landlords claim to recover the cost of the filing fee is dismissed without leave to re-apply as it was not part of the settlement

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 23, 2017

Residential Tenancy Branch