



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, CNC, OPR, OPC, MNR, MND & 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 August 2, 2017
- b. An order to cancel the one month Notice to End Tenancy dated July 13, 2017
- 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 for unpaid rent and damages
- c. An order to recover the cost of the filing fee

A hearing was conducted by conference call in the presence of a representative of the landlord and in the absence of the Tenant 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 one month Notice to End Tenancy was personally served on the Tenant on July 14, 2017. I find that the 10 day Notice to End Tenancy was served on the Tenant by posting on August 2, 2017. Further I find that the Application for Dispute Resolution/Notice of Hearing filed by the landlord was served on the Tenant by mailing, by registered mail to where the Tenant resides on August 28, 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 tenant is entitled to an order cancelling the 10 day Notice to End Tenancy dated August 2, 2017?
- b. Whether the tenant is entitled to an order to cancel the one month Notice to End Tenancy dated July 13, 2017
- c. Whether the tenant is entitled to recover the cost of the filing fee?
- d. Whether the landlord is entitled to an Order for Possession?
- e. Whether the landlord is entitled to A Monetary Order and if so how much?
- f. 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 June 1, 2017, end on May 31, 2018 and the tenant would have to vacate at that time. The rent is \$1600 per month payable on the first day of each month. The tenant paid a security deposit of \$800 on May 23, 2017.

The tenant(s) failed to pay the rent for the months of June 2017 (\$1600 is owed), August 2017 (\$1600 is owed) and September 2017 (\$800 is owed for the period September 1, 2017 to September 15, 2017) and the sum of \$4000 remains owing.

The tenant(s) continues to reside in the rental unit. .

Tenant's Application:

The tenant failed to appear at the hearing. I proceeded in the absence of the Tenant. After carefully considering all of the evidence I determined the landlord has established sufficient cause to end the tenancy. The tenant failed to pay the rent for June 2017, August 2017 and September 2017. The landlord has used the approved form. As a result I dismissed the tenant's application to cancel the 10 day Notice to End Tenancy without leave to re-apply. It is not necessary to consider the tenant's application to cancel the one month Notice to End Tenancy.

I order that the tenancy shall end. I further order that the application of the tenant for the cost of the filing fee be dismissed.

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 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.

Landlord's Application - Order of Possession:

For the reasons set out above I determined the landlord was entitled to an Order for Possession.

Analysis - Monetary Order and Cost of Filing fee:

I determined the tenant has failed to pay the rent for the month(s) of failed to pay the rent for the months of June 2017 (\$1600 is owed), August 2017 (\$1600 is owed) and September 2017 (\$800 is owed for the period September 1, 2017 to September 15, 2017) and the sum of \$4000 remains owing. In addition I determined the tenant failed to pay the water bill for the period May 15, 2017 to July 13, 2017 and the sum of \$76.66 remains outstanding. The tenant sought a

monetary order for damages caused by the Tenant. Those claims are premature as the landlord has not regained possession and does not have sufficient proof of the damages. Those claims are dismissed with liberty to re-apply.

In summary I ordered the Tenant pay to the Landlord the sum of \$4076.66 plus \$100 for the cost of the filing fee for a total of \$4176.66

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: September 11, 2017

Residential Tenancy Branch