



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MT, MNR, OPC, 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 July 27, 2017
- b. An order for more time to make this application.

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

- a. An Order for Possession for cause
- b. A monetary order in the sum of \$9600 for unpaid
- 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. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the 10 day Notice to End Tenancy was served on the Tenant by posting on July 27, 2017. Further I find that the Application for Dispute Resolution/Notice of Hearing filed by each party was served on the other by mailing, by registered mail to where they reside.

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 July 27, 2017
- b. Whether the tenant is entitled to an order for more time to make this application?
- c. Whether the landlord is entitled to an Order for Possession?

- d. Whether the landlord is entitled to A Monetary Order and if so how much?
- e. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence

The parties entered into an oral tenancy agreement provided that the tenancy would start on February 1, 2011 and continue on a month to month basis. The rent is \$1200 per month payable on the first day of each month. The tenant paid a security deposit at the start of the tenancy but was not able to remember exactly how much she paid.

The tenant acknowledged she has been late with the rental payments approximately 12 occasions. The landlord seeks a monetary order of \$9600 for non payment of rent. The tenant testified she expects that she owes more than what the landlord is claiming. The parties agreed that I should set the monetary order for rent owed at \$9600 to the end of the tenancy.

Grounds for Termination:

The Notice to End Tenancy identifies the following grounds:

- Tenant is repeatedly late paying rent

Tenant's Application:

The tenant acknowledged she has paid the rent late on more than 3 occasions. As a result I dismissed the tenant's application to cancel the one month Notice to End Tenancy for late payment of rent. The tenancy shall come to an end.

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. The parties agreed that I should set the effective date of the Order of Possession for November 15, 2017. Accordingly, I granted an Order of Possession effective November 15, 2017.

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 reason's set out above I granted an Order of Possession.

Analysis - Monetary Order and Cost of Filing fee:

I determined the tenant has failed to pay the rent and the sum of \$9600 remains outstanding. 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 \$9600 plus the sum of \$100 in respect of the filing fee for a total of \$9700. I dismissed the landlord's claim of \$200 to pay a strata fine by consent.

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: October 23, 2017

Residential Tenancy Branch