



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR & FF

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 \$ 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 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 March 2, 2018. Further I find that the Application for Dispute Resolution and Notice of Dispute Resolution Hearing was served on the Tenant by mailing, by registered mail to where the tenant resides on March 31, 2018. 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 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 December 1, 2011. The present rent is \$1083.08 per month payable on the first day of each month. The tenant paid a security deposit of \$447.50 at the start of the tenancy.

The tenant(s) failed to pay the rent for the months of March 2018 in the sum of \$1083.08 plus \$40 for parking and \$25 for a late fee and April 2018 in the sum of \$1083.08 plus \$40 for parking and \$25 for a late fee. The total sum owed is \$2296.16.

The tenant continues to reside in the rental unit. The tenant testified he failed to pay the rent because he was involved in a serious car accident and he was fighting for his life in hospital. He stated he expects to pay the arrears and the rent for May 2018 by May 3, 2018.

Analysis - Order of Possession:

I determined the landlord was entitled to an Order for Possession. There is outstanding rent. The Tenant(s) has 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. I set the effective date of the Order of Possession for May 5, 2018 as the parties reached a settlement which is recorded below.

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:

I determined the tenant has failed to pay the rent for the month(s) of March 2018 and April 2018 and the sum of \$2296.16 remains owing (including 2 parking fees of \$40 each and 2 NSF charges of \$25 each). I granted the landlord a monetary order in the sum of \$2296.16 plus the sum of \$100 in respect of the filing fee for a total of \$2396.16.

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.

Settlement:

The tenant represented that he could pay the arrears including the cost of the filing fee in the sum of \$2396.16 and the rent for May in the sum of \$1148.08 (including a \$40 parking charge and a \$25 NSF charge) by May 3, 2018.

The parties reach the following settlement and they asked that I record the settlement pursuant to section 63(2) as follows:

- a. The tenant shall pay to the landlord the arrears including the cost of the filing fee in the sum of \$2396.16 and the rent for May in the sum of \$1148.08 (including a \$40 parking charge and a \$25 NSF charge) by May 3, 2018.
- b. The parties agree that if the tenant makes the payment as set out above the landlord shall reinstate the tenancy and shall not take steps to enforce the Order of Possession and the monetary order. However, if the tenant fails to make the payment as provided above the landlord shall be at liberty to enforce these orders.

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: April 19, 2018

Residential Tenancy Branch