



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPL, MNR, MDSD & FF

Introduction

The Application for Dispute Resolution filed by the landlord seeks the following:

- a. An Order for Possession based on a 2 month Notice to End Tenancy dated November 6, 2017.
- b. A Monetary Order in the sum of \$2400 for non-payment of rent.
- 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 2 month Notice to End Tenancy was personally served on the Tenant on November 6, 2017. Further I find that the Application for Dispute Resolution and Notice of Dispute Resolution Hearing was personally served on the Tenant on February 8, 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 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 tenancy started about 4 years ago. The agent for the landlord testified his father has passed away and he has been unable to locate a written tenancy agreement and does not know whether one exists. The present rent is \$800 per month payable in advance on the first day of each month. The tenant paid a security deposit of \$400 at the start of the tenancy.

The landlord served a 2 month Notice to End Tenancy on the Tenant on November 6, 2017. The agent for the landlord is her son. He testified his father passed away and he intends to move into the basement suite so that he can assist his elderly mother.

The tenant applied his right under section 51 of the Act to the equivalent of one month rent to the rent for January 2018. He has paid the rent for February, March and April 2018.

Analysis - Order of Possession:

I determined the landlord was entitled to an Order for Possession. The Tenant was served with a 2 month Notice to End Tenancy on November 6 2017. 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. As the rent was paid to the end of April I set the effective date of the Order of Possession for April 30, 2018.

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, Security Deposit and Cost of Filing fee

I dismissed the claim for non payment of rent for February, March and April as the rent has been paid. However, I determined the landlord is entitled to recover the cost of the filing fee. I ordered the Tenant pay to the Landlord the sum of \$100 such sum may be deducted from future rent.

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: April 11, 2018

Residential Tenancy Branch