



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, MDSD & FF

Introduction

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

- a. An Order for Possession for non payment of rent
- b. A Monetary Order in the sum of \$9750 for non-payment of rent and damages to the rental unit.
- 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 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. The Tenant failed to file an Application for Dispute Resolution to dispute the 10 day Notice to End Tenancy and failed to provide any evidence.

I find that the 10 day Notice to End Tenancy was personally served on the Tenant on March 18, 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 in late March 2018. The tenant acknowledged receipt of the Application for Dispute Resolution. 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 landlord testified the tenancy began on January 1, 2017. The rent is \$1400 per month payable in advance on the first day of each month. The tenant did not pay a security deposit.

The landlord provided a summary of the amount of rent that that was paid and the amount owed on a monthly basis which includes the following:

DATE	RENT PAID	RENT OWING FOR THE MONTH
January 2017	Nil	\$1400
Feb. 2017	\$1000	\$400
March 2017	NIL	\$1400
April 2017	\$400	\$1000
May 2017	\$800	\$600
June 2017	\$700	\$700
July 2017	\$1400	0
August 2017	\$1400	0
September 2017	\$1400	0
October 2017	\$550	\$850
November 2017	\$1900	0
December 2017	\$1100	\$300
TOTALS	\$10,650	\$6150
January 2018	\$900	\$500
February 2018	\$700	\$700
March 2018	NIL	\$1400
TOTALS		\$2600

In addition the landlord testified the tenant owes \$1400 for April 2018.

The parties agree the rent was \$1400 per month. The summary covers a 15 month period from January 2017 to March 2018. The amount that should have been paid for this period is \$21,000 ($\$1400 \times 15 \text{ months} = \$21,000$). The summary indicates that \$10,650 was paid for 2017 and \$1600 was paid for the period January 2018 to March 2018 for a total rent paid for this period was \$12,250 leaving a balance owing of \$8750. In addition the landlord testified the tenant failed to pay the rent for April 2018 in the sum of \$1400. The total owed is \$10,150.

The tenant testified he has done work for the landlord on this and other houses that should be deducted from the totals. However, he acknowledged he did not pay the rent for March and April. The landlord testified the tenant was paid for the renovation work prior to the start of the tenancy. Further, he has paid the tenant for any additional work the tenant has done on other houses.

The tenant continues to reside in the rental unit.

Analysis - Order of Possession:

After carefully considering all of the evidence I determined the tenant owes rent. The tenant failed to provide any evidence to support his claim that he has done work in exchange for rent. I accept the evidence of the landlord that his summary is accurate. The summary gives credit for those months where the tenant paid all or part of the rent. The tenant's conduct in paying the rent in full for the months of July, August and September 2017 is inconsistent with the tenant's position that the landlord owes him money for renovation work that could be applied against outstanding rent prior to that date. The tenant failed to provide sufficient evidence to provide particulars of the work he allegedly did. Further he failed to provide sufficient evidence to prove the landlord any work he did could be deducted from the rent.

I determined the landlord was entitled to an Order for Possession. There is outstanding rent. The Tenant(s) have 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 for 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 and Cost of Filing fee

I determined the tenant has failed to pay the rent for an extended time from January 1, 2017 to April 30, 2018 and the sum of \$10,150 remains outstanding. I granted the landlord a monetary order in the sum of \$10,150 plus the sum of \$100 in respect of the filing fee for a total of \$10,250. I dismissed the claim to keep the security deposit as no security deposit was paid. I dismissed the landlord's claim of \$1000 for damage to the rental unit as that claim is premature. The landlord has liberty to re-apply.

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: April 24, 2018

Residential Tenancy Branch