



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 on the basis of a 2 month Notice to End Tenancy.
- b. A Monetary Order in the sum of \$3400 for non-payment of rent and damages.
- c. An Order to retain the security deposit.
- d. An Order to recover the cost of the filing fee.

The tenant(s) failed to appear at the scheduled start of the hearing which was 9:00 p.m. on April 26, 2018. The landlord was present and ready to proceed. I left the teleconference hearing connection open and did not start the hearing until 10 minutes after the schedule start time in order to enable the tenant to call in. The tenants failed to appear. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I then proceeded with the hearing in the absence of the tenant(s). The landlord was given a full opportunity to present affirmed testimony, to make submissions and to call witnesses. 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(s) on January 29, 2018. Further I find that the Application for Dispute Resolution and Notice of Dispute Resolution Hearing was served on the tenants by mailing, by registered mail to where the tenants reside on April 6, 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:

On August 1, 2017 the parties entered into a 3 month fixed term written tenancy agreement that provided that the tenancy would start on August 1, 2017 end on November 1, 2018 and then become month to month. The rent is \$1350 plus \$50 for landscaping per month payable in advance on the first day of each month. The tenants paid a security deposit of \$675 on July 28, 2017.

The tenant(s) failed to pay the rent for March 2018 and April 2018. The tenant(s) are entitled to the equivalent of one month rent free as the landlord served a two month Notice to End Tenancy on the Tenant(s). I applied the right to the equivalent of one month rent free to the outstanding rent for March 2018. The tenants failed to pay the rent for April 2018 and the sum of \$1400 remains owing.

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

Analysis - Order of Possession:

I determined the landlord was entitled to an Order for Possession. The landlord served a 2 month Notice to End Tenancy in person on January 29, 2018. 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 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.

Analysis - Monetary Order and Cost of Filing fee

I determined the tenant has failed to pay the rent for the month(s) of April 2018 and the sum of \$1400 remains outstanding. I ordered the claim for damages be dismissed with liberty to re-apply as that claim is premature. I granted the landlord a monetary order in the sum of \$1400 plus the sum of \$100 in respect of the filing fee for a total of \$1500.

Security Deposit

I determined the security deposit plus interest totals the sum of \$675. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$825.

Conclusion:

I granted an Order of Possession on 2 days notice. I ordered that the landlord shall retain the security deposit of \$675. I further ordered that the Tenants pay to the landlord the sum of \$825.

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 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 26, 2018

Residential Tenancy Branch