



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNR OPR FFT MNR FFL

Introduction:

Both parties and a witness attended the hearing and gave sworn testimony. Both parties made Applications. The landlord said they served the tenant with a 10 Day Notice to End the Tenancy for non-payment of rent dated April 2, 2018 to be effective April 12, 2018 by posting it on the door on April 2, 2018. The tenant said they served the landlord with their Application for Dispute dated April 6, 2018 by putting it under the door of their office. I find the documents were sufficiently served pursuant to section 71 for the purposes of this hearing. The tenant applies pursuant to section 46 of *The Residential Tenancy Act* (the Act) to cancel the Notice to End Tenancy.

The landlord applies for an Order of Possession and a monetary order for unpaid rent.

Issues: Is the landlord entitled to an Order of Possession and a monetary order for unpaid rent? Are they entitled to recover the filing fee and retain the security deposit to offset the amount owing? Or is the tenant entitled to any relief?

Background and Evidence:

Both parties and the witness attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The original tenancy began on January 1, 2015. The current rent is \$945 a month. The tenant paid a security deposit of \$435. The landlord testified that the tenant failed to pay \$400 of the rent for March 2018 and paid no rent for April and May 2018 so owes in total \$2290 (400+945+945). The rent is still outstanding. The tenant said he was in the process of moving, he had the unfortunate circumstance of being committed to hospital by his family and he plans to move by May 28, 2018.

The landlord requested an Order for Possession as soon as possible and a monetary order for the outstanding rent. They said the tenant had promised to move before and had promised to pay rent but he does not do what he says.

Analysis:

The Notice to End a Residential Tenancy is based on non-payment of rent. The Residential Tenancy Act permits a tenant to apply to have the Notice set aside where the tenant disputes that rent is owed or where the amount of rent that is unpaid is an amount the tenant is permitted

under this Act to deduct from the rent. Although the tenant disputed the Notice in time, I find he has not paid the any of the rent outstanding. Section 26 of the Act requires a tenant to pay rent when due. I have therefore dismissed his application to cancel the Notice to End the Tenancy. Section 55(1) (a) provides that the arbitrator must grant an order of possession of the rental unit at a hearing where an arbitrator has dismissed the tenant's application pursuant to section 46 and has upheld the Notice. I grant the landlord an Order for Possession.

Furthermore, I find the landlord entitled to recover the outstanding rent of \$2290. Their testimony was supported by the rent ledger and other documents in evidence.

Conclusion:

I grant the landlord an Order for Possession effective two days from service. 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. I dismiss the tenant's application without recovery of the filing fee.

I find the landlord entitled to a monetary order as calculated below. I find them entitled to recover their filing fee and to retain the security deposit to offset the amount owing.

Rent owed for March \$400 + April & May (945x2)	2290.00
Filing fee	100.00
Less security deposit (no interest 2015-18)	-435.00
Total Monetary Order to Landlord	1955.00

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: May 16, 2018

Residential Tenancy Branch