



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNRL-S & FFL

Introduction

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

- a. An Order for Possession for cause
- b. A Monetary Order in the sum of \$11,350 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 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 personally served on the Tenant on May 23, 2019. 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 June 20, 2019. 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 parties entered into a written tenancy agreement that provided that the tenancy would start on September 15, 2018. The rent is \$2600 per month payable in advance on the first day of each month. The tenants paid a security deposit of \$1300 at the start of the tenancy. In addition the tenants paid a pet damage deposit of \$1300 in payments over the next 3 months.

The tenant(s) failed to pay the rent for the months of March 2019 (\$950 is owed), April 2019 (\$2600 is owed), May 2019 (\$2600 is owed), June 2019 (\$2600 is owed) and July 2019 (\$2600 is owed) and the sum of \$11,350 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. 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. The parties agreed that I should set the Order of Possession for August 5, 2019. Accordingly, I granted the landlord an Order for Possession effective August 5, 2019 at 5:00 p.m.

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 2019 (\$950 is owed), April 2019 (\$2600 is owed), May 2019 (\$2600 is owed), June 2019 (\$2600 is owed) and July 2019 (\$2600 is owed) and the sum of \$11,350 remains owing. I determined the landlord has given sufficient notice of their intention to claim for all of last month as provided in the Application for Dispute Resolution. I granted the landlord a monetary order in the sum of \$11,350 plus the sum of \$100 in respect of the filing fee for a total of \$11,450.

Security Deposit/Pet Damage Deposit

I determined the security deposit and pet damage deposit totals the sum of \$2600. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$8850.

Conclusion:

I granted an Order of Possession effective 5:00 p.m. on August 5, 2019. I ordered that the landlords shall retain the security deposit and pet damage deposit which totals \$2600. I further ordered that the tenants pay to the landlord the sum of \$8850.

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: July 29, 2019

Residential Tenancy Branch