



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL, MNDCL-S, MNRL-S OPR

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. An Order for Possession for non-payment of rent
- b. A monetary order in the sum of \$5161 for rent for over-holding and bailiff costs.
- 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 9:30 a.m. on August 22, 2019. Representatives of the landlord were 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 tenant(s) 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. The representatives of the landlord were 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 the hearing a decision has been reached. All of the evidence was carefully considered.

I find that the 10 Notice to End Tenancy was served on the Tenant by posting on June 5, 2019. 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 on July 5, 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 August 1, 2017, end on July 31, 2018 and become month to month after that. The rent was \$1650 plus \$50 for parking per month payable on the first day of each month. The rent was increased to \$1716 commencing August 1, 2018. The tenant paid a security deposit of \$825 at the start of the tenancy.

The tenant(s) failed to pay the rent for the month of June 2019 and the sum of \$1716 was owed. The landlord made a Direct Request application and on June 26 2019 obtained an Order of Possession and a monetary order for the outstanding rent for June 2019. The tenant failed to vacate the rental unit.

On July 4, 2019 the landlord obtained a Writ of Possession from the Supreme Court of British Columbia. The Bailiff executed the Writ of Possession.

The tenant vacated the rental unit on July 17, 2019.

Analysis - Order of Possession:

As the tenant has vacated the rental unit it is no longer necessary to consider the landlord's application for an Order of Possession.

Analysis - Monetary Order and Cost of Filing fee:

I determined that the landlord is entitled to "use and occupation rent" for the tenant overholding for the period July 1, 2019 to and including July 17, 2019 in the sum of \$941. The landlord retains the rent to claim for loss of rent for the balance of July 2019.

The landlord stated he was withdrawing its claim for the cost of the Writ of Possession, affidavits and bailiff costs. I ordered that the application to recover the cost of the Writ of Possession, affidavits and bailiff costs be dismissed as withdrawn with liberty to re-apply.

In summary I determined the landlord is entitled to a monetary order in the sum of \$941 plus the sum of \$100 in respect of the filing fee for a total of \$1041.

Security Deposit:

I determined the security deposit plus interest totals the sum of \$825. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$216.

Conclusion:

I ordered that the Landlord shall retain the security deposit of \$825. In addition I further ordered that the Tenant(s) pay to the Landlord(s) the sum of \$216.

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 both 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: August 22, 2019

Residential Tenancy Branch