Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes   CNR, FFT, MT, PSF, FFL, OPRM-DR

The Application for Dispute Resolution filed by the Tenant makes the following claims:
   a. An order to cancel the 10 day Notice to End Tenancy dated June 6, 2019
   b. An order that he landlord provide services or facilities required by law
   c. An order for more time to make this application?
   d. An order that the tenant recover the cost of the filing fee

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 $7050 for unpaid rent and damages
   c. 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 8, 2019. 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 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 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 the hearing a decision has been reached. All of the evidence was carefully considered.

I find that the 10 day Notice to End Tenancy was sufficiently served on the Tenant on June 6, 2019. The Tenant acknowledges receipt of it in her Application for Dispute Resolution. Further I find that the Application for Dispute Resolution and Notice of Dispute Resolution Hearing filed by the Tenant was sufficiently served on the landlord. I find that the Application for Dispute Resolution and Notice of Dispute Resolution Hearing filed by the Landlord and the Amendment to the landlord's Application for Dispute Resolution was served on the Tenant by mailing, by registered mail to where the tenant resides on July 21, 2019.

Issue(s) to be Decided:
The issues to be decided are as follows:

   a. Whether the tenant is entitled to an order cancelling the 10 day Notice to End Tenancy dated June 6, 2019?

b.   Whether the tenant is entitled to an order for more time to make this application?
c.   Whether the tenant is entitled to an order that the landlord provide services or facilities required by law?
d.   Whether the tenant is entitled to recover the cost of the filing fee?
e.   Whether the landlord is entitled to an Order for Possession?
f.   Whether the landlord is entitled to A Monetary Order and if so how much?
g.   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 March 22, 2019 and end on September 22, 2019. The rent is $2100 per month payable on the first day of each month. The tenant paid a security deposit of $1000 at the start of the tenancy.

The tenant(s) failed to pay the rent for the months of June 2019, July 2019 and August 2019 and the sum of $6300 remains owing.

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

Tenant's Application:
I determined there is no basis for an order to cancel the 10 day Notice to End Tenancy. I accept the landlord's evidence that the tenant failed to pay the rent for the months of June 2019, July 2019 and August 2019 and the sum of $6300 remains owing. The landlord used the approved government form. As a result I dismissed the Tenant's application without leave to re-apply. I further order that the application of the tenant for an order that the landlord provide services or facilities required by law and the cost of the filing fee be dismissed without leave to re-apply. .

Order for Possession:
The Residential Tenancy Act provides that where an arbitrator has dismissed a tenant's application to cancel a Notice to End Tenancy, the arbitrator must grant an Order for Possession. The landlord used the approved government form. As a result 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.

Landlord's Application - Order of Possession:
For the reasons set out above I granted an Order of Possession.

Analysis - Monetary Order and Cost of Filing fee:

I determined the tenant has failed to pay the rent for the month(s) of June 2019, July 2019 and August 2019 and the sum of $6300 remains outstanding. 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 $6300 plus the sum of $100 in respect of the filing fee for a total of $6400. I dismissed the claim for the cost of cleaning with leave to re-apply as I determined that claim is premature and it is possible the tenant will clean the rental unit prior to vacating.

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.

Conclusion:
I dismissed the Tenant's application without leave to re-apply and I granted an Order of Possession on 2 days notice. I ordered that the Tenant pay to the Landlord the sum of $6400.

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: August 08, 2019

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Residential Tenancy Branch