



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MNDC, O, RR

Introduction

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 Application for Dispute Resolution/Notice of Hearing filed by each party was sufficiently served on the other. 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 tenants are entitled to a monetary order and if so how much?
- b. Whether the tenants are entitled to reimbursement of the cost of the filing fee?
- c. Whether the landlord is entitled to an Order for Possession?
- d. Whether the landlord is entitled to reimbursement of the cost of the filing fee?

Background and Evidence

The parties entered into a one year fixed term written tenancy agreement that provided that the tenancy would start on September 1, 2013 and end on August 31, 2014. The rent is \$1350 per month payable on the first day of each month.

The landlord has rented the downstairs suite to a fitness club. A dispute has arisen between the parties as to whether noise from a fitness club amounts to the breach of the covenant of quiet enjoyment. The tenants seek compensation in the sum of \$1350. The landlord disputes this claim.

Settlement:

The parties reached a settlement at the hearing and they asked that I record the settlement pursuant to section 63(2) of the Residential Tenancy Act as follows:

- a. The parties mutually agree to end the tenancy on April 30, 2014.
- b. The landlord releases and discharges the tenant from any further claims for loss rent for breach of the fixed term tenancy agreement.
- c. The landlord shall pay to the Tenants the sum of \$400 on or before May 1, 2014.
- d. Subject to "e" below the Tenants release and discharge the landlord for all claims for breach of the covenant of quiet enjoyment to the end of the tenancy.
- e. The landlord represents and warrants that he/it will not give approval to any of the other Tenants in the rental property to make tenants improvements commencing prior to May 1, 2014 and the Tenants retain the right to make a claim for breach of the covenant of quiet enjoyment for April if the landlord breaches this warranty.

Order of Possession:

As a result of the settlement I granted the landlord an Order for Possession effective 1:00 p.m. on April 30, 2014.

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.

Monetary Order and Cost of Filing fee

I ordered that the landlord pay to the Tenants the sum of \$400 by May 1, 2014.

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 01, 2014

Residential Tenancy Branch

