Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes   OPR, MNR, MDSD & FF

Introduction

A hearing was conducted by conference call in the presence of the applicant and in the absence of the respondent (or anyone appearing on his behalf) although duly served. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

I find that the Notice to End Tenancy was personally served on the Tenant on May 9, 2014. Further I find that the Application for Dispute Resolution/Notice of Hearing was personally served on the Tenant on May 31, 2014. The landlord testified the tenant has recently passed away. He further testified that he has been conversation with the tenant's parents and they are aware of this hearing. The parents did not appear on behalf of the tenant. 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 tenancy agreement that provided that the tenancy would start on October 1, 2011. The rent is $800 per month payable on the first day of each month. The tenant paid a security deposit of $400 at the start of the tenancy.

The tenant(s) failed to pay the rent when it came due. As of April 30, 2014 the tenant owed the landlord $5679.69 in outstanding rent and $402 in outstanding utilities. Since that date the tenant paid $2400 on June 3, 2014 and $1202 on June 20, 2014. The tenant's parents paid $800 in early July for the rent for July. Prior to the passing of the tenant the parties agreed the tenant owed the landlord $4495 (which included an electricity bill of $214.32). The electricity was to June 12, 2014.

In summary I determined the landlord has established a claim against the tenant in the sum of $4495.

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. Accordingly, I granted the landlord an Order for Possession. **As the rent was paid until the end of July I set the effective date for the Order for Possession for July 31, 2014.**

The tenant's executor 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 and the sum of $4495 remains outstanding. I granted the landlord a monetary order in the sum of $4495 plus the sum of $100 in respect of the filing fee for a total of $4595

Security Deposit

I determined the security deposit plus interest totals the sum of $400. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of $4195.

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: July 15, 2014

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Residential Tenancy Branch