



Dispute Resolution Services

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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 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 Notice to End Tenancy was sufficiently served on the Tenant by posting on February 3, 2015. Further I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the tenant on February 12, 2015 as evidenced by the tenant being present in the hearing. 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 December 1, 2014. The rent is \$495 per month payable on the first day of each month. The tenant(s) failed to pay the rent for the months of February and March and the sum of \$990 remains owing. The tenant(s) have remained 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. Accordingly, I granted the landlord an Order for Possession effective March 21, 2015..

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 February and March and the sum of \$990 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 \$990 plus the sum of \$50 in respect of the filing fee for a total of \$1040.

Security Deposit

I determined the security deposit plus interest totals the sum of \$250. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$790.

Settlement:

The tenant represented that he could pay the arrears including the cost of the filing fee in the sum of \$1040 by March 20, 2015. The parties reached a settlement and they asked that I record the settlement pursuant to section 63(2) of the Residential Tenancy Act as follows:

- a. The tenant shall pay the arrears including the cost of the filing fee in the sum of \$1040 by March 20, 2015.
- b. If the tenant pays the arrears as set out above the landlord shall reinstate the tenancy and will not enforce the orders provided with this decision. However, if the tenant fails to pay arrears as represented the landlord shall be at liberty to enforce the order.
- c. The tenant shall pay to the landlord the cost of repairing the door by a contractor hired by the landlord.
- d. The tenant shall not smoke or do drugs in the rental unit and shall clean the rental unit.

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: March 06, 2015

