



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF, RP, OPC, 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 they wished to present.

I find that the one month Notice to End Tenancy was personally served on the Tenant on August 14, 2015. Further I find that the Application for Dispute Resolution/Notice of Hearing filed by each party was sufficiently served on the other as both acknowledged receipt of the Application filed by the other party.

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling the one month Notice to End Tenancy dated August 14, 2015?
- b. Whether the tenant is entitled to a repair order?
- c. Whether the tenant is entitled to recover the cost of the filing fee?
- d. Whether the landlord is entitled to an Order for Possession?
- e. Whether the landlord is entitled to A Monetary Order and if so how much?
- f. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- g. Whether the landlord is entitled to recover 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 December 15, 2013, continue until December 15, 2015 and become month to month after that. The rent is \$1750 per month payable in advance on the first day of each month. The tenant paid a security deposit of \$850 at the start of the tenancy.

The landlord seeks to end the tenancy based on repeated late payment of rent. The landlord testified the tenant has been late paying the rent on 17 occasions. The tenant disputes the landlord's claim. She admits to a late payment for the rent due July 15, 2015 and for rent that was due when she first took possession. However, she testified that she gave the landlord rent cheques on the due date but the landlord failed to deposit the cheques on the due date which she has no control over. The landlord has documentary evidence to corroborate the July 15, 2015 and December 2013 late payment.

The landlord testified he provided the Residential Tenancy Branch with a copy of his bank statement yesterday. That document has not reached the arbitrator. In any event I ruled that it would not be appropriate to consider it as the landlord has not provided the tenant with a copy of it. Further, it would tell when the money was deposited in the bank and not when the landlord received the money.

Settlement:

This is a disputed claim. At the end of the hearing 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 parties mutually agree to end the tenancy on December 31, 2015.
- b. The tenant represent that she will pay the rent when due as follows:
 - The rent due on October 15, 2015 in the sum of \$1750 on October 15, 2015;
 - The rent due on November 15, 2015 in the sum of \$1750 on November 15, 2015.
 - One half of a month rent due on December 15, 2015 in the sum of \$875 on December 15, 2015 (for the period December 15, 2015 to December 31, 2015).
- c. The parties request that the arbitrator issue an Order for Possession on 7 days notice.

- d. The landlord agrees that provided the tenant pays the rent as provided above the landlord shall not exercise his rights under the Order for Possession and shall permit the tenant to remain in the rental unit until December 31, 2015 at which time the tenancy shall end and the tenant must vacate at the latest.. If the tenant fails to make any one of the rent payments the landlord is at liberty to exercise his rights under the Order for Possession.

Tenant's Application:

As a result of the settlement I dismissed the tenant's application including the application for a repair order.

Landlord's Application:

As a result of the settlement I granted an Order for Possession on 7 days notice.

All other claims are dismissed. It is premature to grant a monetary order for the rent for the period October 15, 2015 to November 14, 2015 as the tenant has the day to make the payment.

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.

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: October 15, 2015

Residential Tenancy Branch

