



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. An Order for Possession based on a provision in the fixed term tenancy that the tenant will vacate after the end of the fixed term.
- b. A monetary order in the sum of \$1260 for the failure to clean and rubbish removal.
- c. An Order to retain the security deposit.
- d. An order to recover the cost of the filing fee

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 was served on the Tenant by mailing, by registered mail to where the tenant resides on March 10, 2016. 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 tenancy began on June 1, 1999. The most received written tenancy agreement that provided that the tenancy would start on May 1, 2015, end on April 30, 2016 and that the tenancy would come to an end at that time and the tenant would have to vacate the rental unit. The present rent is \$2408 per month payable in advance on the first day of each month. The tenant paid a security deposit of \$925 on May 5, 1999.

On February 19, 2016 the tenant was advised in writing that the landlord decided not to renew the lease agreement and the tenant would have to move out on April 30, 2016. The tenant stated he intends to move out at the end of the fixed term tenancy. He disputes the monetary claim.

Analysis - Order of Possession:

I determined the landlord was entitled to an Order for Possession. The fixed term tenancy agreement provided that the tenant would have to move out at the end of the fixed term. I do not accept the tenant's objection to the issuance of an Order for Possession on the basis he is intending to leave and this has been a 15 year tenancy. The landlord is entitled to obtain an Order for Possession to ensure the tenancy agreement will be followed.

Accordingly, I granted the landlord an Order for Possession effective April 30, 2016..

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:

The landlord claimed a monetary order in the sum of \$1260.70 for the cost of cleaning and rubbish removal. This claim is premature as the tenancy is ongoing. The landlord failed to present proof to establish the validity of this claim at the end of the tenancy. It may be that the tenant cleans the rental unit and removes the rubbish. The landlord testified the tenant failed to pay the rent. The landlord would have to file a claim for that issue to be adjudicated.

As a result the landlord's claim for a monetary order for failure to clean and garbage removal is dismissed without leave to re-apply. The tenant spent a significant length of time preparing for this claim. It is not appropriate to give the landlord a second opportunity to bring this claim. I dismissed the landlord's application to recover the \$100 filing fee as there is insufficient evidence to establish the tenant intended to remain in the rental unit.

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 19, 2016

Residential Tenancy Branch