



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: OPL, MNR, MNSD, FF

Introduction

This hearing dealt with the landlord's application for an order of possession, a monetary order for unpaid rent and utilities, retention of the security deposit in partial satisfaction of the claim, and recovery of the filing fee. Both parties participated in the hearing and each gave affirmed testimony.

Issues to be Decided

- Whether the landlord is entitled to an order of possession
- Whether the landlord is entitled to a monetary order under the *Act*

Background and Evidence

Tenancy began on or about October 28, 2008. Rent in the amount of \$550.00 is payable in advance on the first day of each month. A security deposit of \$275.00 was collected at the start of tenancy. There is no residential tenancy agreement, rather, the parties rely on a tenant application form as documentation in support of the tenancy. This document includes no reference to the tenant's responsibility for utilities.

It appears that the landlord has been informed by local government officials that the rental unit does not conform to certain bylaws. In the result, the unit cannot continue to be rented as is, and must be incorporated into another already existing unit in the building. Accordingly, the landlord issued a 2 month notice to end tenancy for landlord's use of property. The landlord submitted into evidence a copy of the 2 month notice dated October 31, 2008, however, the parties were unable to agree on the date when

the notice was hand delivered to the tenant. The tenant received one month rent free for December 2008 and has paid no rent for January 2009.

Analysis

Pursuant to section 63 of the *Act*, during the hearing the parties exchanged proposals and achieved a resolution of the dispute. Specifically, the parties agreed as follows that:

- an order of possession will be issued in favour of the landlord effective on or before 1:00 pm, Sunday, February 15, 2009;
- the landlord will retain the full amount of the tenant's security deposit;
- pursuant to a monetary order in favour of the landlord the tenant will pay to the landlord FORTHWITH the amount of \$275.00.

The parties agree that the above particulars comprise full and final settlement of all aspects of the dispute for both parties.

Conclusion

I hereby issue an order of possession in favour of the landlord effective on or before **1:00 pm, Sunday, February 15, 2009**. This order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I hereby grant the landlord a monetary order under section 67 of the *Act* for **\$275.00**. If the tenant fails to comply with the above agreement, this order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

DATE: January 27, 2009
