

## **DECISION**

**Dispute Codes:** DRI, CNR, ERP, RP, RR, FF

### **Introduction**

This hearing dealt with an application by the tenants to cancel the notice to end tenancy based on unpaid rent; to dispute an additional rent increase; for the landlord to make emergency repairs for health or safety reasons and to make repairs to the unit, site or property; and to allow tenants to reduce rent for repairs, services or facilities agreed upon but not provided.

### **Preliminary Matters**

At the outset of the hearing, the tenants said that they had intended to dispute the notice to end tenancy for cause which they received on January 6, 2009. But they mistakenly omitted to check off the appropriate box in the application form. The tenants asked for their application to be amended to include this ground. The landlord agreed to the tenants' request for amendment and said that she was prepared to proceed with respect to this additional ground. I thereby amend this application to include the tenants' application to cancel the notice to end tenancy for cause.

During the hearing, the tenants agreed to withdraw their application to dispute these issues pending on the outcome of the hearing: an additional rent increase; for the landlord to make emergency repairs for health or safety reasons and to make repairs to the unit, site or property; and to allow tenants to reduce rent for repairs, services or facilities agreed upon but not provided. I therefore dismiss the tenants' application of the above stated issues with leave to reapply.

### **Issues to be Decided**

Whether the agreed upon monthly rent was \$2400.00 or \$2300.00?

Whether the landlord agreed for the tenants to deduct \$1500.00 from the December rent as cost of their labour for painting the property?

Whether the tenants are entitled to deduct the costs of the materials for painting the property from the balance of the December rent?

Whether the landlord has established grounds to end tenancy based on unpaid rent?

### **Background and Evidence**

The tenancy began on November 15, 2008 based on a verbal tenancy agreement. The landlord said that the tenants refused to enter into a written tenancy agreement or to pay a security deposit.

The landlord agreed for the tenants to live rent free from November 15 to 30 in exchange for the tenants' labour in performing certain work on the property.

The tenants said that they did not pay the December rent because the landlord also agreed for them to deduct from it, the costs of their labour and the materials for painting the property. The landlord denied that she had agreed for the tenants to deduct such costs from the December rent. She admitted to only agreeing to reimburse the tenants for the costs of the materials required to paint the property. But she never received the proper receipts for such expenses. In the ensuing weeks, a series of conflicts between the landlord and the tenants took place. On January 6, 2009, the tenants were served with a notice to end tenancy for unpaid rent and a notice to end tenancy for cause.

## **Analysis**

### **Issue #1 – Whether the agreed upon monthly rent was \$2400.00 or \$2300.00?**

The landlord said that at the start of the tenancy, she and the tenants agreed on a monthly rent of \$2400.00. The landlord admitted that she also agreed to a reduced monthly rent of \$2300.00 on the condition that tenant KG would fulfill certain hours of work on the property. However, tenant KG failed to perform such work, therefore the monthly rent remained at \$2400.00.

BR was the former caretaker of the property. He introduced the tenants to the landlord and was present when the tenancy was struck. He also helped to manage the property at the early part of the tenancy. BR gave the following evidence with respect to the amount of the monthly rent. At the start of the tenancy, the landlord and the tenants agreed on a monthly rent of \$2400.00. The landlord did offer to reduce the rent to \$2300.00 should tenant KG perform certain hours of work on the property. Tenant KG is the son of tenant JG. Tenant KG failed to perform the agreed upon hours of work. At one point, tenant JG “kicked” his son, tenant KG, out of the house.

The tenants maintained that agreed upon monthly rent was \$2300.00. At the same time, they did not refute the landlord’s assertion that the \$2300.00 monthly rent was predicated on certain hours of work being performed by tenant KG. At one point, JG said that he had taken care of the lawn and cleared the leafs but he made no connection between such work and the \$100.00 rent reduction.

Based on the above, I find the tenants not to have proven that the agreed upon monthly rent was \$2300.00. I therefore find the monthly rent to be \$2400.00.

### **Issue #2 – Whether the landlord agreed for the tenants to deduct \$1500.00 from the December rent as cost of their labour for painting the property?**

The tenants gave the following evidence with respect to the cost of their labour in painting the property. The landlord was pleased with the job they did in painting the house. She then offered them a deduction of \$1500.00 from the December rent as reimbursement for their labour.

The landlord denied having agreed to such a deduction. A written communication dated December 17, between tenant JG and BR was submitted by both parties as supporting evidence. In this document, BR was trying to collect rent from tenant JG. He asked tenant JG for \$900.00 for the December rent and not \$2400.00. I note that \$900.00 was the balance owing after \$1500.00 was deducted from the \$2400.00.

Based on the above, I find the tenants to have proven that the landlord had agreed to a \$1500.00 deduction from the December rent as cost of their labour for painting the property.

Issue #3 – Whether the tenants are entitled to deduct the costs of the materials for painting the property from the balance of the December rent?

The landlord said that she agreed to reimburse the tenants when they gave her the receipts for the materials required for painting the property. However, the tenants did not provide her with the proper receipts. To support her claim, the landlord submitted two receipts given to her by the tenants. One receipt was dated October 25, 2008 for the amount of \$74.65 and the other was dated November 3, 2008 for the amount of \$93.18. The landlord said that these two receipts did not add up an amount of \$739.00 claimed by the tenants. Furthermore, these receipts showed a transaction date that preceded the tenancy.

The tenants did not dispute that they gave these two receipts to the landlord but offered no explanation for them. They maintained that the costs of the materials for painting the property total to \$739.00. Therefore, based on a monthly rent of \$2300.00, they owed the landlord only \$61.00 for the December rent. The tenants' assertion in this regard was communicated to BR in a document dated December 17.

I asked the tenants if they submitted the receipts for the \$739.00. Tenant JG became evasive and gave no evidence with respect to the existence of such receipts. I asked the tenants if they paid the landlord the \$61.00 they thought they owed for the December rent. Tenant JG said that on December 24, he purchased a 150 feet extension cord for the landlord but gave no evidence with respect to its cost. The tenants also did not submit a receipt for this purchase.

Based on the above, I find the tenants not to have proven the costs of the materials required for painting the property. I therefore find that the tenants are not entitled to deduct such costs from the balance of the December rent.

Issue #4 – Whether the landlord has established grounds to end tenancy based on unpaid rent?

Based on all of the above, I find that the tenants have not paid an outstanding rent for December in the amount of \$900.00. The landlord has therefore established grounds to end this tenancy. For the reasons given above, I dismiss the tenants' application.

During the hearing, the landlord requested an order of possession. I find that she is entitled to an order of possession. The tenants must be served with the order of possession. Should the tenants 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.

Dated February 16, 2009.