



Dispute Resolution Services

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

DECISION

Dispute Codes: OPR, OPC, MNR, MNDC and MNSD and FF

Introduction

These applications were brought by two successive landlords and the tenant.

By application of January 19, 2009, the first landlord sought an Order of Possession pursuant to a Notice to End Tenancy for unpaid rent served on January 9, 2009 and a monetary order for the unpaid rent, utilities and filing fee.

By application of January 29, 2009, the second landlord sought an Order of Possession pursuant to the same Notice to End Tenancy for unpaid rent and a monetary order for the unpaid rent, utilities and filing fee and authorization to retain the security deposit in set off against the balance owed.

By application of February 2, 2009, the tenant sought to have set aside the Notice to End Tenancy for unpaid rent of January 9, 2009, another notice for unpaid rent served on February 2, 2009 and a Notice to End Tenancy for cause served on January 31, 2009.

At the beginning of the hearing, the second landlord advised that the tenants vacated the rental unit on March 1, 2009 and withdrew the request for an Order of Possession.

Despite having made applications, the first landlord and the tenant did not call in to the number provided to enable their participation in the telephone conference call hearing. Therefore, it proceeded in their absence.

Issues to be decided

These applications now require a decision on whether the new (second) landlord is entitled to a monetary order for the unpaid rent/loss of rent, utilities and filing fee, and authorization to retain the security deposit in set off against the balance.

Background and Evidence

This tenancy began on December 16, 2008. Rent was \$1,400 per month and the landlord holds a security deposit of \$700 paid on or about December 16, 2008. The tenancy ended on March 1, 2009 when the tenant moved out having given only five days notice.

During the hearing, the landlord also advised that he had purchased the rental building and took possession on January 23, 2009. He had moved in to the lower unit and intended to continue renting the upper unit.

He gave evidence, supported by the first landlord's application, that the tenant had not paid rent for January, February or March of 2009. In addition, the rental agreement made the tenant responsible for half of the utilities which were not paid.

Analysis

As the tenant did not appear, and as having moved out she had rendered her application largely moot, her application is dismissed without leave to reapply.

As the first landlord did not appear, and as his rights and obligations with respect to the tenancy have passed to the new landlord, his application is dismissed without leave to reapply.

The second landlord claims, and I find he is entitled to a Monetary Order for the unpaid rent, loss of rent, half of the \$50 hydro bill for February, recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off. As I cannot know for certain when the landlord will find a new tenant, I will allow loss of rent to mid-March and give the landlord leave to reapply if he cannot find a new tenant for March 15m 2009.

The Monetary Order is calculated as follows:

Rent for January 2009	\$1,400.00
Rent for February 2009	1,400.00
Loss of rent to March 15, 2009	700.00
Half of hydro for February 2009	25.00
Filing fee	50.00
Sub total	\$3,575.00
Less retained security deposit	- 700.00
Less interest (Dec. 16, 2008 to date)	- .46
TOTAL	\$2,874.54

Conclusion

Thus, the landlord's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia, for \$2,874.54 for service on the tenant.

March 2, 2009

Dispute Resolution Officer