



Dispute Resolution Services

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

Decision

Dispute Codes: OPR, OPB, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with two applications: 1) from the landlords for an order of possession, a monetary order in compensation for unpaid rent / utilities, retention of the pet damage deposit in partial satisfaction of the claim, and recovery of the filing fee; 2) from the tenants for cancellation of the notice to end tenancy, a monetary order in compensation for loss, and recovery of the filing fee. Both parties participated and / or were represented in the hearing and gave affirmed testimony.

Background and Evidence

Pursuant to a written residential tenancy agreement, the six month term of tenancy is from February 1 to July 30, 2009. Rent in the amount of \$850.00 is payable in advance on the first day of each month. While a pet damage deposit of \$400.00 was collected on January 25, 2009, no security deposit was collected.

A dispute arose between the parties as to whether or not some portion of rent and utilities remained overdue for payment at the close of February 2009. This led to the landlord's issuance of a 10 day notice to end tenancy for unpaid rent or utilities. A copy of the 10 day notice dated March 2, 2009 was entered into evidence, and the tenants acknowledged having been served with the notice on that same date.

Subsequently, it appears that any misunderstanding was cleared up in relation to payment for utilities. However, during the hearing there was no consensus between the parties as to whether all rent due for March and April had been paid and, if it had, on what dates and in what amounts the payments been made.

Further, the tenants expressed concern that there had been difficulties in communication with the landlords in relation to matters including, but not limited to, whether there were to be rent concessions in exchange for improvements made to the unit by the tenants. In any event, during the hearing the parties exchanged views on the matters of dispute and undertook to try to settle the matter.

Analysis

Pursuant to section 63 of the Act, discussion between the parties during the hearing led to a resolution of the dispute. Specifically, it was agreed as follows:

- that the landlord will set aside any claim for rent that may be outstanding for February, March or April 2009;
- that the tenants will vacate the unit by no later than May 15, 2009, and that an order of possession will be issued to the landlord to that effect;
- that the landlord will make no claim against the tenants for unpaid rent or loss of rental income for the period from May 1, 2009 to the end of the fixed term of tenancy of July 30, 2009;
- that the landlord will withhold the amount of the \$50.00 filing fee from repayment of the tenants' \$400.00 pet damage deposit at the end of tenancy;
- that the above particulars comprise full and final settlement of all aspects of the dispute for both parties.

[The attention of the parties is drawn to provisions set out in section 38 of the Act which address **Return of security deposit and pet damage deposit**, in addition to provisions set out in section 39 of the Act which speak to **Landlord may retain deposits if forwarding address not provided.**]

Conclusion

Pursuant to the above agreement, I hereby issue an order of possession in favour of the landlord effective not later than **1:00 p.m., May 15, 2009**. This order must be served on

the tenants. 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.

DATE: May 4, 2009

Dispute Resolution Officer