

DECISION

Dispute Codes: OPC, MND, MNSD and FF

Introduction

This application was brought by the landlord seeking an Order of Possession pursuant to a one-month Notice to End Tenancy for unpaid rent served in person to an adult staying in the rental unit on August 17, 2009. The landlord also sought a Monetary Order for damages to the rental unit and authorization to retain the tenant's security deposit in set off.

Issues to be Decided

This matter requires a decision on whether the landlord is entitled to an Order of Possession and a Monetary Order for the damages claimed and recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off against the balance owed.

Background and Evidence

This tenancy began on June 30, 2009. Rent is \$650 per month and the landlord holds a security deposit of \$325 paid on or about June 30, 2009.

During the hearing, the landlord noted four letters submitted into evidence issuing warnings to the tenant regarding complaints from neighbours of disturbance dated July 15, 200, July 17, 2009, August 10, 2009 and August 17, 2009.

The landlord also stated that police had attended the rental unit on occasion and that the tenant had apparently broken a bedroom window on September 29, 2009.

The tenant stated that many of the disturbance complaints had resulted from a neighbouring rental unit but the landlord noted that those tenants had been evicted at the end of August yet the disturbance complaints had persisted.

The tenant stated that the window had been broken by someone throwing stones at it, but the landlord said the glass had been found outside the window, establishing that it had been broken from the inside.

The landlord also submitted a letter from the tenant dated September 9, 2009 giving notice to end the tenancy on October 1, 2009. and a letter from the tenant's co-occupant giving notice on behalf of the tenant that they would be moving on October 31, 2009.

The tenant stated that she had been unable to meet those deadlines due to an injury.

Analysis

Section 47(4) of the *Act* which deals with landlord notice to end a tenancy for cause provides that the tenant has 10 days to make application to contest the notice. If the tenant does not do so, they are conclusively presumed to have accepted that the tenancy ends on the date set by the notice which was September 30, 2009.

In this instance, I find that the tenant has not made application to dispute the Notice to End. Therefore, she is conclusively presumed to have accepted the end of the tenancy and I find that the landlord is entitled to an Order of Possession effective two days from service of it on the tenant.

I further find that the landlord is entitled to a Monetary Order for replacement of the broken window (receipt provided, carpet cleaning as agreed to in the rental agreement, and the cost of spraying for fleas as previously agreed to by the tenant, and recovery of the filing fee for this proceeding. I further find that the landlord is entitled to retain the security deposit in set off against the balance owed as follows:

Replacement of broken window	\$150.74
Carpet cleaning	65.00
Spray for fleas	135.00
Filing fee	<u>50.00</u>
Sub total	\$400.74
Less retained security deposit (no interest due)	- 325.00
TOTAL	\$ 75.74

Given that the security deposit covers most of the damages, the landlord agreed to settle her monetary claim by retaining the security deposit only.

Conclusion

Thus, the landlord's copy of this decision is accompanied by an Order of Possession effective two days from service of it on the tenant and I hereby authorize and order that the landlord may retain the \$325 security deposit in satisfaction the claims in damages and filing fee.

The Order of Possession is enforceable through the Supreme Court of British Columbia.