



Dispute Resolution Services

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

Decision

Dispute Codes: CNR MNDC OLC ERP RP LAT RR

Introduction

This hearing dealt with applications by the tenant and the landlord. The tenant applied to cancel a notice to end tenancy, as well as for monetary compensation, a rent reduction, orders that the landlord comply with the Act and do repairs and emergency repairs, and an order authorizing the tenant to change the locks. The landlord applied for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The tenant, the landlord and an agent for the landlord participated in the teleconference hearing.

The tenant acknowledged that on September 2, 2009 he gave the landlord written notice of his intention to vacate the rental unit as of September 1, 2009, and the landlord stated that she received and accepted that notice. I therefore found that the landlord was entitled to an order of possession based on the tenant's written notice to vacate, and I did not need to consider the validity of the notice to end tenancy for unpaid rent. I accordingly dismiss the portions of the tenant's and the landlord's applications regarding the notice to end tenancy for unpaid rent. As I am granting an order of possession, I also find I need not consider the portions of the tenant's application regarding orders that the landlord comply with the Act, do repairs and emergency repairs, and an order authorizing the tenant to change the locks. I accordingly dismiss those portions of the tenant's application.

Issue(s) to be Decided

Is the tenant entitled to monetary compensation as claimed?

Is the landlord entitled to a monetary order for unpaid rent and lost revenue?

Background and Evidence

The tenancy began in October 2008. Rent in the amount of \$450 was payable in advance on the first day of each month. The landlord collected a security deposit from the tenant in the amount of \$225, the balance of which was paid, according to the landlord, by February 2009. The tenant stated that the security deposit was paid in full at the outset of the tenancy, but he failed to provide any evidence to establish when the security deposit was paid.

The evidence of the tenant on his application was as follows. Within a short time after the tenant moved in, other tenants began stealing the tenant's food, toilet paper, shampoo and other personal possessions from common areas of the rental unit. The tenant verbally informed the landlord's agents of these problems, but the landlord did nothing about it. The tenant has claimed monetary compensation of \$75 per month for 11 months, for a total of \$825. The landlord's response to the tenant's application was that the tenant never informed her of any problems regarding stealing.

The tenant and the landlord agreed that the landlord did not cash any of the rent cheques for September, October or November 2009. The landlord applied for unpaid rent and lost revenue for those three months.

Analysis

As stated above, the landlord is entitled to an order of possession based on the tenant's notice to vacate. The order of possession is effective two days after service on the tenant.

In regard to the tenant's claim for monetary compensation, I find that the tenant has failed to provide sufficient evidence to support his claim. In particular, the tenant did not notify the landlord of the problems in writing.

As for the landlord's monetary claim, I find that the landlord is entitled to unpaid rent and

lost revenue for the months of September and October 2009 in the amount of \$900 and a prorated amount for November 1 through 10, 2009 in the amount of \$150. I dismiss with leave to reapply the portion of the landlord's application for lost revenue for the remainder of November 2009. As the landlord's application was successful, they are also entitled to recovery of the \$50 filing fee.

In regard to the security deposit, I find that the tenant failed to provide evidence to confirm that the deposit was paid in full at the outset of the tenancy. I accept the landlord's testimony that the security deposit was not paid in full until February 2009. I therefore find that no applicable interest has accrued on the security deposit.

Conclusion

The tenant's application is dismissed.

I grant the landlord an order of possession. The tenant must be served with the order of possession. 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.

The landlord is entitled to a monetary claim of \$1100. I order that the landlord retain the security deposit of \$225 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$875. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated November 6, 2009.