

Decision

Dispute Codes: OPR, MT, CNR, MNR, MNDC, FF

Introduction

This hearing dealt with two applications: 1) by the landlord for an order of possession, a monetary order as compensation for unpaid rent, and recovery of the filing fee; 2) from the tenant for more time to make an application to cancel a notice to end tenancy, for cancellation of a notice to end tenancy, and a monetary order as compensation for damage or loss under the Act, regulation or tenancy agreement. Both parties participated in the hearing and gave affirmed testimony.

Issues to be decided

- Whether either party is entitled to any of the above under the Act, regulation or tenancy agreement

Background and Evidence

Pursuant to a written residential tenancy agreement, the month-to-month tenancy began on February 1, 2009. Rent in the amount of \$490.00 is payable in advance on the first day of each month. A security deposit of \$245.00 was collected on February 1, 2009.

The tenant gave notice of her intent to vacate the unit effective February 1 by letter dated January 1, 2010. Subsequently, in part as a result of concerns related to bed bugs, the tenant vacated the unit on or about December 13, 2009.

Arising from rent which was unpaid when due on January 1, 2010, the landlord issued a 10 day notice to end tenancy for unpaid rent dated January 5, 2010. Thereafter the tenant has made no further payment toward rent.

While the tenant has removed some of her possessions from the unit, others still remain. The landlord's agent testified that a new resident is ready to take possession of the unit effective March 1, 2010, and that the tenant's remaining possessions must first

be removed and cleaning must be completed. The parties agreed that as the tenant is incapable of disposing of discarded furniture & refuse, the landlord will dispose of these items after the tenant has removed any remaining valuables during the next two days. Further, the parties agreed that the landlord will then undertake to have the unit cleaned.

The landlord reserves the right to later file an application for dispute resolution in order to seek a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement (removal of discarded furniture & refuse, cleaning and possibly some repairs).

In the meantime, during the hearing the parties exchanged views on circumstances surrounding the dispute and undertook to achieve a resolution of the issues immediately at hand.

Analysis

Section 63 of the Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the parties during the hearing led to a partial resolution. Specifically, it was agreed as follows:

- that the tenant will remove any and all valuables which still remain in the unit over the course of the next two days;
- that the tenant will FORTHWITH then return all unit & mailbox keys to the landlord's agent;
- that an immediate order of possession will be issued in favour of the landlord(s);
- that the current and respective applications by the parties for compensation will be settled by way of the tenant's payment to the landlord(s) in the amount of \$600.00;

- that the tenant's security deposit of \$245.00 will be applied against the above amount, leaving a balance owing by the tenant to the landlord(s) in the amount of \$355.00 (\$600.00 - \$245.00);
- following from the above, that a monetary order for \$355.00 will be issued in favour of the landlord(s)

Conclusion

Pursuant to all of the above, I hereby issue an order of possession in favour of the landlord(s) effective not later than **two (2) days** after service upon the tenant. This order must be served on the tenant. 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.

I hereby order that the landlord(s) may withhold the tenant's **security deposit** in the amount of **\$245.00**.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord(s) in the amount of **\$355.00**. This order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

DATE: February 23, 2010

Dispute Resolution Officer