



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes DRI, CNR, MNR, MNDC

Introduction

This matter dealt with an application by the Tenant to dispute a rent increase and to cancel a Notice to End Tenancy for Unpaid Rent dated January 1, 2010.

The Tenant also applied for a monetary order for compensation of \$6,700.00 for emergency repairs and for compensation for damage or loss under the Act or tenancy agreement. The Tenant claimed that this part of his application was with respect to stolen jewellery and electronics damaged by electrical surges due to the Landlord's failure to make repairs. However in a previous hearing on December 14, 2009, the Tenant made the same claims and his application was dismissed without leave to re-apply due to a lack of evidence. Consequently, I find that this matter has already been dealt with and as a result, the Tenant's application for compensation for these items is dismissed without leave to reapply.

Issues(s) to be Decided

1. Does the Landlord have cause to end the tenancy?
2. Are there arrears of rent and utilities and if so, how much?

Background and Evidence

This tenancy started approximately 2 ½ years ago. Rent was \$600.00 per month payable on or before the 5th day of each month plus \$75.00 for utilities which was payable on or before the 15th day of each month. The Tenant said that approximately 8 months ago the Landlord increased the amount of utilities by \$25.00 and then 3 months ago increased it another \$75.00 for a total of \$200.00.

On January 1, 2009, the Landlord served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent and Utilities dated January 1, 2010. The Landlord claimed that the Tenant did not paid rent or utilities for November 2009, December 2009 and January 2010 and is now in arrears of rent and utilities for February 2010. The Landlord admitted that he did not give the Tenant a Notice for the increase in utilities.

Analysis

In the previous hearing held on December 12, 2009 between these parties, the Dispute Resolution Officer found that the same rent increase complained of the Tenant in this



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matter was an invalid rent increase and as a result, the Tenant was permitted to deduct an overpayment of \$75.00 from a future rent payment. However, the Tenant did not apply that amount to his rent because he has not paid rent since October 2009.

As a result, I find that this matter has also been dealt with previously and that based on the agreed rental rate of \$600.00 per month and the utility amount of \$125.00, the Tenant has combined arrears of \$2,175.00. Given that the Tenant was permitted to deduct \$75.00 from his rent, the amount owing to the Landlord would be reduced to \$2,100.00 as of January 31, 2010. Given also that the Tenant has rent arrears, I find that there are no grounds for his application to cancel the 10 Day Notice to End Tenancy for Unpaid Rent and it is dismissed without leave to re-apply.

The Landlord requested and I find pursuant to s. 55(1) of the Act that he is entitled to an Order of Possession. The Parties agreed that the tenancy would end on March 1, 2010 at 1:00 p.m. and as a result, the Landlord will receive an Order of Possession to take effect on that date.

Conclusion

The Tenant's applications in this matter are dismissed without leave to re-apply. An Order of Possession to take effect on March 1, 2010 at 1:00 p.m. will be issued to the Landlord. A copy of the Order of Possession must be served on the Tenant and may be enforced in the Supreme Court of British Columbia.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: February 16, 2010.

Dispute Resolution Officer