



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNR, OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing was convened upon joint applications filed by the tenant and the landlord.

The tenant seeks:

1. To cancel a Notice to End Tenancy given for unpaid rent.

The landlord seeks:

1. An Order of Possession based on a Notice to End Tenancy given for unpaid rent;
2. A monetary Order for unpaid rent;
3. An Order to be allowed to retain the security deposit;
4. Recovery of the filing fee paid for this application.

Both parties appeared at the hearing and gave evidence under oath.

Background and Evidence

The landlord testified that this tenancy began on August 1, 2010. On July 11, 2010 the tenant paid a security deposit of \$315.00. The landlord testified that the tenant did not pay rent for September 1, 2010. The landlord then served a notice to End Tenancy on September 5, 2010 but made a mistake on that Notice. The landlord says he served another Notice for September's rent on September 15, 2010. To date the landlord says he has not received September or October rent and he wishes a monetary order for those sums and an Order of Possession.

The tenant says she did inform the landlord she would be late paying her September rent and he said it was OK. The tenant says she called the landlord when she had the money and he said he didn't want it and he wanted the tenant to get out.

The landlord testified that he attended the rental unit twice to serve the Notice to End Tenancy and to speak to the tenant and she never had the rent.

The tenant disagreed. The tenant says she still has the rent. A discussion ensued whereby the landlord agreed that he would accept rent for September and October if it were paid today. The landlord stated that he would give the tenant a couple of hours to go to the bank get the rent and he could be at the rental unit today at 11:30 to pick it up. The tenant responded that she is looking for a new place and she would not be "...paying the fricking rent now..."

Analysis and Findings

Order of Possession

I find that the landlord is entitled to an Order for Possession. There is outstanding rent. The tenant(s) has/have not made application pursuant to Section 46 to set aside the Notice to End a Residential Tenancy and the time to do so has expired. In these situations, the *Residential Tenancy Act* provides that the tenant(s) has/have been deemed to have accepted the end of the tenancy on the date set out in the Notice.

Monetary Order

Rental Arrears

I find that the landlord has met the burden of proving that there are rental arrears. I find the landlord is entitled to recovery of those arrears. I will award the landlord a monetary order for rental arrears in the sum of \$1,260.00 calculated as \$630.00 rent for each of September and October, 2010.

Security Deposit

I find further that the landlord is entitled to retain the security deposit and interest to the date of this decision in partial satisfaction of the rental arrears.

Filing Fees

I find that the landlord is entitled to recover the filing fees paid for this application.

Calculation of total Monetary Award

Rental Arrears	\$1,260.00
Filing Fees for the cost of this application	50.00
Less Security Deposit (no interest accrued)	-315.00
Total Monetary Award	\$995.00

Conclusion

The landlord is provided with a formal copy of an order of possession. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The landlord is provided with a formal copy of an order for the total monetary award as set out above. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Provincial Court of British Columbia.
