

Decision

Dispute Codes: OPR, OPC, MNR, MNDC, MNSD, FF, CNC, CNR, LRE

Introduction

This hearing dealt with two applications: i) by the landlord for an order of possession, a monetary order as compensation for unpaid rent / compensation for damage or loss under the Act, regulation or tenancy agreement, retention of the security deposit, and recovery of the filing fee; ii) by the tenant for cancellation of notice(s) to end tenancy, and an order suspending or setting conditions on the landlord's right to enter the rental unit. 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

The month-to-month tenancy began on or about October 31, 2004. Currently, rent in the amount of \$600.00 is payable in advance on the first day of each month. A security deposit of \$275.00 was collected at the start of tenancy.

The landlord issued a 1 month notice to end tenancy for cause dated September 1, 2010. The reason shown on the notice for its issuance is as follows:

Tenant is repeatedly late paying rent

Subsequently, arising from rent which remained overdue from May and for September 2010, the landlord issued a 10 day notice to end tenancy for unpaid rent dated September 10, 2010. The tenant acknowledged receipt of both of the above notices and filed an application to dispute them on September 13, 2010. While the tenant

continues to reside in the unit, following issuance of the notices the tenant has made no further payment toward rent.

During the hearing the parties exchanged views on some of the circumstances surrounding the dispute and undertook to achieve at least a partial resolution.

Analysis

The full text of the Act, regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca/

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 vacate the unit by no later than 1:00 p.m., Monday, October 25, 2010, and that an order of possession will be issued in favour of the landlord to that effect.

Based on the documentary evidence and testimony of the parties, I find that the tenant was served with a 1 month notice to end tenancy for cause dated September 1, 2010, and a 10 day notice to end tenancy for unpaid rent dated September 10, 2010. While the tenant filed an application to dispute the notices, the tenant did not pay the outstanding rent within 5 days of receiving the 10 day notice. Pursuant to the agreement reached between the parties, as above, an order of possession will be issued in favour of the landlord.

As for the monetary order, I find that the landlord has established a claim of \$1,450.00. This is comprised of \$200.00 in unpaid rent for May, \$600.00 in unpaid rent for September, \$600.00 in unpaid rent for October, and the \$50.00 filing fee. I order that the landlord retain the security deposit of \$275.00 plus interest of \$9.73, and I grant the

landlord a monetary order under section 67 of the Act for the balance owed of \$1,165.27 (\$1,450.00 - \$284.73).

Following from all of the above, the tenant's application to have the notice(s) to end tenancy set aside is hereby dismissed.

In regard to the aspect of the tenant's application for an order suspending or setting conditions on the landlord's right to enter the rental unit, the parties referred to an occasion in June 2010 when the landlord attended the unit without providing notice, but was permitted entry by the tenant. For the future reference of the parties, section 28 of the Act speaks to **Protection of tenant's right to quiet enjoyment**, while section 29 of the Act addresses **Landlord's right to enter rental unit restricted**. In consideration of the present circumstances of the dispute, this aspect of the tenant's application is hereby dismissed.

Conclusion

Pursuant to the above, I hereby issue an **order of possession** in favour of the landlord effective not later than **1:00 p.m., Monday, October 25, 2010**. 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.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$1,165.27**. Should it be necessary, this order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

DATE: October 19, 2010

Dispute Resolution Officer