



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPL, MND, MNR, MNSD, MNSD, FF

Introduction

This hearing dealt with the landlord's application for an Order of Possession for landlord's use of property, and a Monetary Order for damage to the rental unit, unpaid rent and authority to retain the security deposit. Both parties appeared at the hearing and were provided the opportunity to make submissions, in writing and orally, and to respond to the submissions of the other party.

The landlord identified two tenants in making this application although the landlord was uncertain as to the standing of the second respondent. Upon review of the tenancy agreement I noted that only one tenant signed the tenancy agreement. Both parties consented to an amendment of the application to identify only the tenant that signed the tenancy agreement.

I determined the landlord's claim for damage to the rental unit was pre-mature as the tenant remains in possession of the rental unit and I dismissed that portion of the landlord's application with leave to reapply.

The parties reached a mutual agreement during the hearing that I have recorded below.

Issues(s) to be Decided

What are the terms of the mutual agreement to resolve this dispute?

Background and Evidence

It was undisputed that the tenant received a 2 Month Notice to End Tenancy for Landlord's Use of Property on August 3, 2010. The Notice indicates that the landlord, or a close family member of the landlord, intends to occupy the rental unit. The tenant did not dispute the Notice and continues to occupy the rental unit. The tenant did not pay rent for the months of September, October or November 2010.

During the hearing the requirements for effective dates on Notices to End Tenancy were discussed and I informed the parties that the effective date on the Notice served upon the tenant on August 3, 2010 should have read October 31, 2010. The landlord stated that he intends to occupy the rental unit and currently has his possessions in storage waiting for vacant occupancy of the rental unit. The tenant indicated that she had been packing and has appointments set up to view prospective rental units but needed more time to vacate the rental unit.

The parties agreed to the following terms during the hearing:

1. The tenancy shall continue until November 30, 2010 at which time the tenancy will end and the tenant, and all occupants, must vacate the rental unit.
2. The tenant will pay the landlord two months of rent (\$1,500.00) forthwith after taking into account one month of free rent provided under section 51(1) of the Act.
3. The tenant remains obligated to pay the landlord utilities as required by the tenancy agreement and as provided under the Act.
4. The security deposit remains in trust to be administered in accordance with the Act at the end of the tenancy.

Analysis

Since the tenant did not dispute the Notice served upon her on August 3, 2010 and I found the Notice otherwise valid the tenancy shall end pursuant to the 2 Month Notice. However, I accept the mutual agreement reached between the parties with respect to the date the tenancy shall end and I provide the landlord with an Order of Possession with an effective date of November 30, 2010. To enforce the Order of Possession it must be served upon the tenant and filed in The Supreme Court of British Columbia.

I also provide the landlord with a Monetary Order for \$1,500.00 to ensure payment of the rent owed the landlord.

I order that the parties shall share in the cost of filing this application. The landlord is authorized to withhold \$25.00 from the tenant's security deposit in satisfaction of this order and the remainder of the security deposit remains in trust to be administered in accordance with section 38 of the Act.

The landlord is at liberty to make a subsequent application for unpaid utilities if necessary. The landlord remains obligated to fulfill the reason indicated on the Notice to End Tenancy and if the landlord fails to do so the tenant may be entitled to additional compensation under section 51(2) of the Act.

Conclusion

The tenancy has ended pursuant to the issuance of an undisputed 2 Month Notice to End Tenancy. By mutual agreement the tenant shall be permitted occupancy until November 30, 2010 at which time the tenant must vacate the rental unit. The tenant must pay the landlord rent owed in the amount of \$1,500.00. The landlord is authorized to recover \$25.00 towards the filing fee from the tenant's security deposit. The

remainder of the security deposit remains in trust to be administered in accordance with the Act.

With this decision I have provided the landlord with an Order of Possession effective November 30, 2010 and a Monetary Order in the amount of \$1,500.00 to serve upon the tenant as necessary.

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: November 02, 2010.

Dispute Resolution Officer