



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

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

Introduction

This hearing dealt with cross applications by the landlord and tenant. The landlord's application is for an order of possession for unpaid rent, a monetary order for unpaid rent, compensation for damage or loss and recovery of the filing fee. The tenant's application is to cancel a notice to end tenancy for cause, cancel a notice to end tenancy for unpaid rent, return of the security deposit and recovery of the filing fee. Both parties participated in the conference call hearing.

Issues to be Decided

Is either party entitled to any of the above under the Act.

Summary of Background and Evidence

This tenancy started July 24, 2010 with monthly rent of \$620.00, the tenants paid a \$310.00 security deposit. On October 4, November 3 and December 7, 2010 the landlord served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent. On October 21, 2010 the landlord served the tenants with a 1 Month Notice to End Tenancy for Cause: tenant is repeatedly late paying rent.

The landlord testified that the tenants have repeatedly been late paying rent from the onset of the tenancy. The tenants made a rent payment of \$630.00 on October 21, 2010 and the landlord's agent gave the tenants a receipt stating 'for use and occupancy only, this does not re-instate tenancy'.

The tenants currently owe the landlord unpaid rent in the following amounts: November 2010, \$610.00, December 2010, \$620.00 for a total of \$1230.00 in unpaid rent; the landlord is seeking a monetary order for \$1230.00. The landlord's agent is seeking an order of possession effective 2 days after service on the tenants.

The landlord's agent stated in this hearing that the landlord would be willing to allow the tenants to stay in the rental unit until December 31, 2010 provided that the tenants immediately pay the November and December rent in full.

Residential Tenancy Branch
Ministry of Housing and Social Development

The tenants testified that they had attempted to pay their rent on time but that it was difficult to get in touch with the landlord's agent to do so. The tenant's stated that they had run out of cheques and that also had affected their ability to pay the rent on time.

The tenants interpreted the notation on the October 4, 2010 notice 'Add \$620 Nov 1, 2010' to mean that they did not have to pay the October rent until November 1, 2010 and this is not the case. The 10 Day Notice to End Tenancy for Unpaid Rent is clearly dated by the landlord's agent and the notice it's self clearly outlines the tenant's responsibility regarding unpaid rent.

Analysis

Based on the documentary evidence and testimony I find that the tenants were properly served with a 10 day notice to end tenancy for unpaid rent. The tenants did apply to dispute the notice but as the landlord's agent issued the tenants a receipt stating 'for use and occupancy only, this does not re-instate tenancy' the notice is in effect. Based on the above facts I find that the landlord has met the burden of proving that they have grounds for entitlement to an order of possession.

As for the monetary order, I find that the landlord has established a claim for \$1230.00 in unpaid rent.

The landlord is also entitled to recovery of the \$50.00 filing fee.

The tenant's application is hereby dismissed.

Conclusion

I hereby grant the Landlord an **Order of Possession**, effective **2 days** after service of the Order upon the Tenants. This Order must be served on the Tenants and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim for \$1230.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee. I grant the landlord an monetary order under section 67 for the balance due of **\$1280.00** (\$1230.00+\$50.00=\$1280.00)

A monetary order in the amount of **\$1280.00** has been issued to the Landlord and a copy of it must be served on the Tenant. If the amount is not paid by the Tenant, the



Dispute Resolution Services

Page: 3

Residential Tenancy Branch
Ministry of Housing and Social Development

Order may be filed in the Provincial (Small Claims) Court of British Columbia and enforced as an order of that court.

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: December 10, 2010

Dispute Resolution Officer