

Decision

Dispute Codes: OPR, MNR, FF

Introduction

This hearing dealt with the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / and recovery of the filing fee. Both parties participated or were represented in the hearing and gave affirmed testimony.

Issues to be decided

- Whether the landlord is entitled to any of the above under the Act

Background and Evidence

Pursuant to a written tenancy agreement, a copy of which is not in evidence, the month-to-month tenancy began on or about April 15, 2008. While monthly rent started at \$1,200.00, approximately midway through 2009 the parties agreed to reduce it to \$1,100.00 per month. A security deposit in the full amount of \$1,000.00 was collected near the outset of tenancy.

The parties testified that the tenancy agreement names 3 tenants: i) tenant "JM" who is the tenant named in the landlord's application; ii) tenant "CF" who attended the hearing; and iii) tenant "KF" who is tenant "CF's" mother.

Tenant "CF" testified that her mother, tenant "KF" vacated the unit more than 1 year ago, and that tenant "JM" vacated the unit approximately 6 months ago.

Documentary evidence submitted by the landlord includes 2 separate 10 day notices to end tenancy for unpaid rent: one is dated November 1, 2010, while the other is dated November 15, 2010. Both notices name only tenant "JM," and both notices reflect that rent in the total amount of \$1,800.00 was not paid when due on November 1, 2010.

The first notice shows that \$1,800.00 was comprised of overdue rent for October of \$600.00, and overdue rent for November of \$1,200.00.

However, while the second notice also shows that \$1,800.00 was overdue on November 1, 2010, manual notations on the notice show overdue rent for October of \$600.00, and overdue rent for November of \$600.00.

The tenant states that in response to one of the above 2 notices, she filed an application for dispute resolution, seeking, amongst other things, to have the notice to end tenancy set aside. The tenant states that the landlord does not provide rent receipts, and her understanding is that rent has been paid up to November 15, 2010. Further, the tenant states that certain repairs to the unit must be completed by the landlord.

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

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 not later than 1:00 p.m., Monday, January 31, 2011, 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 there is irregularity and confusion surrounding the 10 day notices to end tenancy; specifically, it is not sufficiently clear how much rent was overdue at the time when the respective notices were served, how the total amounts shown in unpaid rent were calculated, and what exact amounts / if any, were paid after service of the 2 separate and different notices. In the result, I hereby dismiss the monetary aspect of the landlord's application

with leave to reapply. The parties are encouraged to resolve between them any dispute around unpaid rent by the time the tenancy ends on January 31, 2011.

As the parties achieved a settlement during the hearing in regard to an end date to tenancy, the landlord's application to recover the filing fee is hereby dismissed.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **1:00 p.m., Monday, January 31, 2011**. 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.

DATE: December 15, 2010

Dispute Resolution Officer