

## **Decision**

**Dispute Codes:** OPR, CNR, MNR, MNDC, RP, RR, FF

### **Introduction**

This hearing dealt with 2 applications: i) by the landlords for an order of possession / a monetary order as compensation for unpaid rent / and recovery of the filing fee ii) by the tenant for cancellation of a notice to end tenancy / a monetary order as compensation for damage or loss under the Act, regulation or tenancy agreement / an order instructing the landlords to make repairs to the unit, site or property / authority to reduce rent for repairs, services or facilities agreed upon but not provided / and recovery of the filing fee.

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**

There is no written tenancy agreement for this tenancy which originally began on or about February 1, 2000. The rental unit has an upstairs and a downstairs, and at one time the tenant's parents also lived in the unit. The landlord testified that the tenant's parents no longer live there, but the tenant's sister currently lives in the downstairs. As the number of occupants has changed, so too has the amount of monthly rent.

The landlord takes the position that the tenant is responsible for paying rent for the entire upstairs and downstairs which is presently \$1,650.00. The tenant, on the other hand, testified that she only rents the upstairs portion of the house and that monthly rent is \$1,000.00.

The parties agree that the landlords no longer retain any portion of a security or pet damage deposit that may have once been collected.

The landlords issued a 10 day notice to end tenancy for unpaid rent dated December 16, 2010. The notice was served on the tenant on that same date. The notice shows \$4,950.00 as overdue on December 7, 2010, which might suggest that monthly rent of \$1,650.00 is in arrears for 3 months (3 x \$1,650.00). The tenant disputed the notice by filing an application for dispute resolution on December 21, 2010. While the tenant agrees that she is in arrears with rent, there is insufficient evidence to support what particular amount may be outstanding.

While the tenant gave the landlord verbal assurances during the hearing that she would make regular rental payments in future and try to catch up with the arrears, these assurances were not sufficient to persuade the landlord to withdraw his application for an order of possession. The landlord testified that the tenant has been unable to deliver on similar assurances in the past, and he requires a tenant who can make regular payment of rent.

The tenant provided insufficient evidence to support her claim that the landlord owes her compensation for upgrades she claims to have made to the unit. Further, the tenant provided insufficient evidence that the unit requires repairs, or that there is any justification for being given authority to reduce rent for repairs, services or facilities agreed upon but not provided.

### **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/](http://www.rto.gov.bc.ca/)

Based on the documentary evidence and the testimony of the parties, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated December 16, 2010. Whatever amount of rent was overdue, even while the tenant filed an application for dispute resolution within 5 days of receiving the notice, the parties agree

that all overdue rent was not paid within 5 days following issuance of the notice. Accordingly, I find that the landlords are entitled to an order of possession.

As to the landlord's claim for compensation for unpaid rent, while I find that there is an amount of rent which is overdue, I further find that the landlord has provided insufficient evidence of the exact amount. Accordingly, this aspect of the landlord's application is hereby dismissed with leave to reapply.

As I find that the landlords have established entitlement to an order of possession, the tenant's application to have the notice to end tenancy set aside is hereby dismissed. In the absence of sufficient evidence to support any other aspect of the tenant's application, all other aspects of her application are also hereby dismissed.

### **Conclusion**

I hereby issue an **order of possession** in favour of the landlords effective not later than **two (2) days** after service upon the tenant. 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.

All other aspects of the respective applications are hereby dismissed, with the exception of the landlord's application for a monetary order as compensation for unpaid rent, which is dismissed with leave to reapply.

DATE: January 18, 2011

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Dispute Resolution Officer