

Decision

Dispute Codes: MT / OPR, CNR, MNR, MNDC, MNSD, ERP, 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 / compensation for damage or loss under the Act, regulation or tenancy agreement / retention of the security deposit & pet damage deposits / and recovery of the filing fee; ii) by the tenants for more time to make an application to cancel a notice to end tenancy / cancellation of a notice to end tenancy / an order instructing the landlords to make emergency repairs for health or safety reasons / and permission to reduce rent for repairs, services or facilities agreed upon but not provided.

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

Pursuant to a written tenancy agreement, a copy of which is not in evidence, the month-to-month tenancy began on March 26, 2009. Rent in the amount of \$850.00 is payable in advance on the first day of each month. A security deposit and a pet damage deposit in the combined amount of \$850.00 was collected at the outset of tenancy.

Arising from rent which was unpaid when due on December 1, 2010, the landlords issued a 10 day notice to end tenancy for unpaid rent dated December 9, 2010. The notice was served on the tenants by way of regular mail. A copy of the notice was submitted into evidence. Subsequently, the tenants have made no further payments

toward rent for either December 2010 or January 2011, and they continue to reside in the unit.

The tenant acknowledged that she received the notice on or about December 12, 2010. However, the tenant's application for dispute resolution was filed on January 6, 2011, which is outside of the 5 day period available for disputing a 10 day notice to end tenancy.

While the tenant applied for more time to make an application to dispute a notice to end tenancy, she provided no exceptional reasons in support of her application.

During the hearing the parties exchanged views on some of the circumstances surrounding the dispute and undertook to achieve a 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 resolution. Specifically, it was agreed as follows:

- that the tenants will vacate the unit by not later than 1:00 p.m. on Monday, January 31, 2011, and that an order of possession will be issued in favour of the landlords to that effect;
- that the combined amount of the security deposit (\$425.00) and the pet damage deposit (\$425.00) will be used to offset the entitlement established by the landlords for compensation for unpaid rent for December 2010 (\$850.00);

- that a monetary order will be issued in favour of the landlords for \$900.00, which is comprised of unpaid rent for January 2011 (\$850.00) in addition to the filing fee (\$50.00);
- that the landlords withdraw all other aspects of their application which include compensation for repairs to a door, fees for late payment of rent, and the filing fee;
- that the tenants withdraw all aspects of their application;
- that the above particulars comprise full and final settlement of all aspects of the dispute arising from this tenancy which are currently before me, for both parties.

Conclusion

I hereby issue an order of possession in favour of the landlords effective not later than **1:00 p.m., Monday, January 31, 2011**. This order must be served on the tenants.

Should the tenants 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 landlords in the amount of \$900.00. Should it be necessary, this order may be served on the tenants, filed in the Small Claims Court and enforced as an order of that Court.

DATE: January 18, 2011

Dispute Resolution Officer