



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPC, MND, MNDC, MNSD, & FF

Introduction

This hearing dealt with an application by the landlord seeking to end the tenancy based on a 1 month Notice to End Tenancy for Cause which was served upon the tenant. The landlord appear and gave affirmed oral testimony, provided documentary evidence in accordance with the rules of procedure and was given the opportunity to make submissions to me. The tenant did not appear.

The landlord provided testimony that the tenant was served with notice of this application, hearing and all supporting evidence by registered mail on December 21, 2010. The landlord provided tracking information from Canada Post which confirmed that delivery had been attempted and the registered package had not been claimed by the tenant as of January 5, 2011.

Based on the documentary evidence provided by the landlord, I am satisfied that the tenant was served with notice of this proceeding by registered mail and I deem that the tenant received notice on the fifth day after the registered mail was sent pursuant to section 90(a) of the *Act*.

I proceeded with the hearing in the tenant's absence.

Issue(s) to be Decided

Has the tenant breached the tenancy agreement or *Act* entitling the landlord to an Order of Possession ending this tenancy?

Has the tenant, or a guest permitted on the property by the tenant caused damage to the rental property entitling the landlord to a monetary relief?

Background and Evidence

This tenancy began on September 3, 2010 for the monthly rent of \$900.00 and a security deposit of \$450.00. The monthly rent is due on the last day of the month.

On December 1, 2010 the tenant was served with a 1 month Notice to End Tenancy for Cause. The cited reasons for ending the tenancy were:

- The tenant or a person permitted on the property significantly interfered with or unreasonably disturbed another occupant or the landlord;
- Put the landlord's property at significant risk;
- The tenant has caused extraordinary damage to the unit or property; and
- The tenant has not done required repairs of damage to unit or property.

The landlord seeks to end the tenancy due to the continued disturbances caused by the tenant and her guest and due to the damage caused to a door in the common area of the rental building.

The landlord also seeks a monetary claim for the cost of repairing the door damaged by a guest of the tenant when he was being pursued by the police. The landlord provided a receipt confirming that it cost \$615.44 to repair the door.

Analysis

Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

I accept that the tenant was served with a 1 month Notice to End Tenancy for Cause on December 1, 2010. The landlord has provided a written response to the notice from the tenant dated December 2, 2010. The tenant had 10 days from receiving the notice to end tenancy to file an application for Dispute Resolution to dispute the notice. Having failed to exercise this right, the tenant is conclusively presumed to have accepted the end of the tenancy effective **January 31, 2011**.

On this basis I grant the landlord's application for an Order of Possession.

Section 32(3) of the *Act* requires a tenant to repair damage caused to common areas in a rental property, even when that damage is caused by a person permitted on the property by the tenant.

The tenant has argued with the landlord that the cost to repair the door in the common area is not here responsibility. I disagree and I find that the tenant is responsible for this



Dispute Resolution Services

Page: 3

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

cost as the damage was a result of an altercation between her guest and the police. If the tenant believes that the police are responsible for paying for this damage, the tenant should reimburse the landlord and then pursue her own claim against the police.

The landlord has provided an invoice for damages totalling \$615.44. However, I find that this amount represents total replacement and the landlord is only entitled to cost of the depreciated value of the door. Since most doors have a useful life of 25 years, I find that it is reasonable to conclude that the tenant is only responsible for 75% of the total cost to repair the door.

Therefore, I find that the landlord has established a monetary claim for damage to a door in the common area for the sum of **\$461.58**. I Order that the landlord may recover most of this cost from the tenant's security deposit of \$450.00. I also grant the landlord's request to recover the \$50.00 filing fee paid for this application from the tenant. I have issued the landlord a monetary Order for the remaining balance owed of **\$61.58**.

I dismiss the landlord's application seeking non-payment of rent for January 2011. This is not an issue relevant to the matters before me in this application and is the tenant has breached the *Act* by failing to pay rent the landlord has remedies available under the *Act* to resolve that issue.

Conclusion

The landlord's application is granted and I have issued the landlord an Order of Possession effective **January 31, 2011 at 1:00 p.m.** This Order may be filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I have also granted the landlord a monetary Order for the sum of **\$61.58**. This Order may be filed with the Province of British Columbia Small Claims Court 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: January 12, 2011.

Residential Tenancy Branch