



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF, MT, CNR, LRE

Introduction

This hearing was convened upon joint applications being filed by the tenant and the landlord.

The tenant seeks:

1. More time to make this application;
2. To Cancel a Notice to End Tenancy given for unpaid rent;
3. To suspend or set conditions on the landlord's right to enter the rental unit; and
4. Other.

The landlord seeks:

1. An Order of Possession;
2. A monetary Order for unpaid rent;
3. A monetary Order to recovery the security deposit;
4. A monetary Order for compensation for damage or loss; and
5. Recovery of the filing fee paid for this application.

Both parties appeared at the hearing and gave evidence under oath. I am therefore satisfied that the parties were served with the respective Applications for Dispute Resolution.

Issue(s) to be Decided

Is either party entitled to the Orders sought?

Background and Evidence

The tenant testified that he was served with a 10 day Notice to End Tenancy on December 22, 2010 which he found posted to his rental unit door. The tenant filed an

application seeking to dispute that Notice on December 23, 2010. The tenant agrees that he has not paid rent for either December 2010 or January 2011. The tenant says he has no money to pay the rental arrears. The tenant says the money he did have was paid to the landlord at the new rental unit he will be moving into on February 1, 2011. The tenant asks to remain in this rental unit until January 31, 2011 and advises that if the landlord cannot do this for him he will be homeless. The tenant says he is elderly and ill and cannot be forced onto the street.

The landlord testified that she is unable to extend the tenant's stay until the end of January because the tenant has not paid his rent for 2 months. The landlord testified that rent is \$900.00 per month and that she holds a security deposit of \$450.00 and a pet deposit of \$200.00 both of which she requests permission to retain and offset against a monetary award for unpaid rent.

The tenant objected to the off-setting of the pet deposit stating that pet deposits may only be retained by landlords in relation to damages caused by pets and his pet has not caused any damage.

Analysis

The tenant has agreed that he has not paid his rent for either December 2010 or January 2011. Rent was fixed at \$900.00 per month and the tenant therefore currently owes \$1,800.00. The Notice to End Tenancy issued in this matter had an effective date of January 4, 2011, and this tenancy therefore ended on that date. The landlord is entitled to an Order of Possession effective 2 days after service.

As there are rental arrears the landlord is also entitled to a monetary award for those arrears in the sum of \$1,800.00. Contrary to the tenant's argument that the pet deposit can only be used against pet damage, pursuant to Section 72 of the Residential Tenancy Act, security and pet deposits held on account of the tenant by the landlord may be applied to any monetary award issued in favour of the landlord. I will therefore deduct the \$450.00 security deposit and \$200.00 pet deposit from the \$1,800.00 monetary award made herein leaving a balance owing of \$1,150.00.

As the landlord has been successful in her application she is entitled to recovery of the filing fee paid for this application making a total monetary award payable by the tenant to the landlord in the sum of \$1,200.00.

Conclusion

The landlord is provided with a formal copy of an order of possession. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The landlord is provided with a formal copy of an order for the total monetary award as set out above. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Provincial Court of British Columbia.