

Decision

Dispute Codes: OPR, MNR, FF

Introduction

A hearing was originally convened on January 11, 2011, in response to the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / and recovery of the filing fee. Agents for the landlord participated in the hearing and gave affirmed testimony. The tenant did not appear.

By decision dated January 11, 2011, an order of possession and a monetary order were issued in favour of the landlord. Thereafter, on January 17, 2011 the tenant filed an application for review on the basis of the following 2 grounds:

- that a party was unable to attend the original hearing because of circumstances that could not be anticipated and were beyond the party's control, and
- that a party has evidence that the director's decision or order was obtained by fraud.

By decision dated January 21, 2011, the dispute resolution officer who considered the application for review, suspended the decision and orders dated January 11, 2011 until the completion of a new hearing.

Issues to be decided

- Whether the landlord is entitled to any of the above under the Act, regulation or tenancy agreement

Background and Evidence

There is no written tenancy agreement in evidence for the tenancy which began in approximately September 2009. The parties set out varied perspectives in relation to how and when the amount of monthly rent changed during the term of the tenancy. However, the parties agree that the ministry currently makes direct payment of monthly rent to the landlord in the amount of \$526.80.

During the hearing the parties exchanged views on some of the circumstances surrounding the dispute and undertook to achieve a resolution. Matters discussed included, but were not necessarily limited to, who served what on whom, and when.

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 resolution. Specifically, it was agreed as follows:

- that the landlord accepts rent as having been paid in full to the end of February 2011, and that the notice to end tenancy for unpaid rent is therefore effectively set aside;
- that following from the above, the landlord withdraws the application for a monetary order as compensation for unpaid rent;
- that rent for March & April 2011 will be considered as paid in full by way of the ministry's continued direct payment to the landlord in the amount of \$526.80 per month for each of these 2 months;
- that the tenant will vacate the unit by not later than 1:00 p.m., Saturday, April 30, 2011, and that an order of possession will be issued in favour of the landlord to that effect;
- that the landlord withdraws the application to recover the filing fee;
- that the above particulars comprise full and final settlement of all aspects of the dispute currently before me and related to this tenancy, for both parties.

Following from the above, the decision and orders issued January 11, 2011 are hereby set aside.

Conclusion

I hereby issue an order of possession in favour of the landlord effective not later than **1:00 p.m., Saturday, April 30, 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.

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*.

DATE: February 8, 2011

Residential Tenancy Branch

