

Decision

Dispute Codes: OPR, MNR, MNDC, MNSD, FF

Introduction

This hearing dealt with 2 applications: i) by the landlord for an order of possession / a monetary order as compensation for unpaid rent or utilities / retention of the security deposit / and recovery of the filing fee; ii) by the tenant for cancellation of the notice to end tenancy / a monetary order as compensation for emergency repairs / compensation for damage or loss under the Act, regulation or tenancy agreement / 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

Details around the tenancy agreement and the miscellaneous issues in dispute between these parties, are set out in a previous decision dated January 28, 2011. Subsequent to that decision, the parties have submitted further applications for dispute resolution.

Since the last hearing held on January 21, 2011, arising from rent which was unpaid when due on February 1, 2011, the landlord issued a 10 day notice to end tenancy for unpaid rent dated February 2, 2011. The notice was served by way of posting on the tenant's door on that same date. Subsequently, the tenant has made no further payment toward rent and he continues to reside in the unit.

The tenant sought to argue that his withholding of the rent is based on a claim that the landlord owes him compensation for utilities, as well as for costs he incurred for repairs to the furnace.

During the hearing the parties exchanged views on some of the circumstances surrounding the dispute and undertook to achieve a resolution.

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 tenant will vacate the unit by not later than 1:00 p.m., Monday, February 28, 2011, and that an order of possession will be issued in favour of the landlord to that effect;
- that the landlord withdraws his application for a monetary order as compensation for unpaid rent for February 2011;
- that the tenant withdraws his application for a monetary order as compensation for utilities and costs incurred for repairs to the furnace;
- that the parties will undertake a move-out condition inspection at the end of the tenancy and attempt to reach an agreement in regard to the disposition of the security deposit of \$325.00, which was collected on March 29, 2010;
- that with the exception of the disposition of the security deposit, the above particulars comprise full and final settlement of all aspects of the dispute arising from this tenancy for both parties.

Should the parties be unable to reach agreement around the disposition of the security deposit at the end of tenancy, they have the option of filing applications for dispute resolution in regard to that particular issue.

With the exception of the disposition of the security deposit which has yet to be resolved, as above, the parties have reached a settlement of their dispute. Accordingly, their respective applications to recover the filing fees are hereby dismissed.

Conclusion

I hereby issue an order of possession in favour of the landlord effective not later than **1:00 p.m., Monday, February 28, 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 21, 2011

Residential Tenancy Branch