

DECISION

Dispute Codes OPR, MND, MNR, MNSD, FF

Introduction

This hearing was convened by way of conference call to deal with the landlords' application for an Order of Possession for unpaid rent or utilities; for a monetary order for damage to the unit, site or property; for a monetary order for unpaid rent or utilities; for an order permitting the landlord to retain the pet damage deposit or security deposit; and to recover the filing fee from the tenant for the cost of this application.

One of the named landlords attended the conference call hearing with a witness, who both gave affirmed testimony however, despite being served with the Landlord's Application for Dispute Resolution and notice of hearing documents by registered mail on February 18, 2011, the tenant did not attend. All testimony provided by the landlord and the witness has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent or utilities?
Are the landlords entitled to a monetary order for damage to the unit, site or property?
Are the landlords entitled to a monetary order for unpaid rent or utilities?
Are the landlords entitled to retain the security deposit or pet damage deposit in full or partial satisfaction of the claim?

Background and Evidence

This fixed-term tenancy began on June 1, 2010 and is to expire on May 31, 2011. Rent in the amount of \$1,350.00 per month is payable in advance on the 1st day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$675.00. The rental unit is a condominium in a complex, and the landlords do not reside in that complex.

The landlord testified that during the month of December, 2010 the tenant gave the landlord a cheque for January's rent dated January 1, 2011. The cheque was returned

by the bank marked "insufficient funds." The tenant was notified by the landlord, and the tenant subsequently gave the landlord another cheque dated February 1, 2011 for January's rent, and that cheque was also returned for insufficient funds. The tenant then gave the landlord a cheque for \$675.00 for half a month of rent for February and told the landlord she would be moving on February 15, 2011, and that cheque was also returned for insufficient funds, and the landlord testified that the tenant did not move out on February 15, 2011.

The tenant was served with a 1 Month Notice to End Tenancy for Cause dated January 29, 2011 which contained an expected date of vacancy of February 28, 2011. The landlord testified that the tenant was personally handed that notice in the presence of the police on January 29, 2011. The notice stated that the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord; that the tenant has engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord; and that the tenant has caused extraordinary damage to the unit/site or property/park.

The tenant was also served a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on February 1, 2011.

The landlord further testified that the tenant and her guests caused damage to a door in the common area, and was the subject of a number of fines imposed by the strata.

The landlord's witness testified that she is a property manager at the complex and that on August 2, 2010 the strata council received 2 written complaints from other occupants in the building, and on August 19, 2010 the strata sent a letter to the landlord and the tenant as a notice about conduct. That letter spoke about cigarette butts being thrown off the balcony of the 14th floor and noise complaints. On September 8, 2010 another letter was sent from the strata council to the landlord and the tenant which spoke again about noise complaints, loud music and an uninsured van parked in the tenant's parking spot. The witness also testified that the resident caretaker of the complex sent her an email stating that he had spoken to the tenant who admitted the vehicle belonged to her ex-boyfriend.

The witness also testified that on October 12, 2010 she received a noise complaint stating that the tenant and another person were yelling at each other from the unit to the street between 1:30 a.m. and 3:00 a.m. As a result, the strata council again sent a letter to the landlord and to the tenant on October 19, 2010 giving the tenant until October 22, 2010 to remove the uninsured vehicle and imposing a \$50.00 fine for the

noise complaint of October 12, 2010 as well as a \$50.00 fine for another noise complaint on October 15, 2010.

On October 13, 2010 the tenant attended to purchase another key to the rental unit from the strata council but was denied. The following day, the tenant's grandmother attended attempting to get into the unit, but was taken away in an ambulance.

On December 16, 2010 the strata council again sent a letter to the landlord and to the tenant explaining that a guard had been hired due to incidents of the tenant and her guests being intoxicated the weekend prior, and that the door in the exercise room had been broken. She stated that the door had been kicked in at the middle of the door and the handle was also split. The door could not be repaired. The letter also stated that the cost for the guard was the responsibility of the landlord and tenant at \$172.48. It also stated that fines in the amount of \$800.00 were imposed for noise, smoking, alcohol and destruction of property to the common areas of the complex.

On December 28, 2010 another letter was sent from the strata council to the landlord and the tenant imposing another \$100.00 fine for loud noise complaints on December 22, 2010.

The witness further testified that on January 11, 2011 a meeting was held with the strata council and the landlord to urge the landlord to apply for dispute resolution to obtain an Order of Possession and have the tenant evicted. On January 21, 2011 a letter was sent to the landlord and tenant about that meeting, that the cost for a new fire door was \$1,114.92, and that the tenant was no longer entitled to use the exercise room.

The witness also testified that guests are now urinating in the hall, and the tenant has poured water over the balcony. She stated that the tenant was arrested last night and that may be the reason she has not attended this hearing. A window in the unit is also broken, as can be seen from the outside. She also testified that the tenant has left common doors open for homeless people, and has buzzed other units to let her in when she doesn't have her keys. These issues are contrary to the strata rules.

The landlord claims \$1,114.92 for replacement of the door; \$800.00 for fines imposed on December 16, 2010; \$100.00 for the December 28, 2010 fine; \$50.00 for the October 12, 2010 incident; \$50.00 for the October 15, 2010 incident; as well as two month's rent totalling \$2,700.00, the \$50.00 cost of this application, for a grand total of \$4,864.92.

Analysis

In the circumstances, I find that the landlord has established that the landlord has cause to issue the notice to end the tenancy, and that the landlord is entitled to an Order of Possession.

I further find that the landlord has established the claim before me in its entirety. The landlord is also entitled to recovery of the \$50.00 filing fee for the cost of this application.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord on 2 days notice to the tenant. If the tenant is served with the Order of Possession and fails 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.

I further order that the landlord retain the security deposit and interest of \$675.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$4,189.92. This order may be filed in the Provincial Court of British Columbia, Small Claims division 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: March 01, 2011.

Residential Tenancy Branch