

Decision

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

Introduction

This hearing was originally scheduled in response to the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / compensation for damage or loss under the Act, regulation or tenancy agreement / retention of the security deposit / and recovery of the filing fee. The landlord participated in the hearing and gave affirmed testimony, however, while duly served with the application for dispute resolution and the notice of hearing, the tenants did not appear.

Prior to and separate from this proceeding, the landlord's application for an order of possession and a monetary order was dealt with by way of a direct request proceeding on November 10, 2010. In the result, an order of possession dated November 10, 2010 was issued in favour of the landlord, to be effective not later than two (2) days after service upon the tenants. Additionally, a monetary order dated November 10, 2010 was issued in favour of the landlord in the amount of \$4,500.00 with respect to "the rent shortfall for August and full rent for September and October 2010."

The current proceeding, therefore, is limited to consideration of the landlord's application for a monetary order as compensation for unpaid rent / loss of rental income for November and December 2010, retention of the security deposit, and recovery of the filing fee.

Issues to be decided

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

Background and Evidence

Pursuant to a written tenancy agreement, the original fixed term of tenancy was from April 1, 2008 to March 31, 2009. Thereafter, tenancy continued on a month-to-month basis. Monthly rent was \$2,100.00, and a security deposit of \$1,050.00 was collected.

After the landlord's issuance of a 10 day notice to end tenancy for unpaid rent which was dated and served on October 19, 2010, the tenants made payment toward rent in the limited amount of \$500.00. Following this, by letter to the landlord dated November 8, 2010, the tenants informed the landlord of their intent to vacate the unit by November

15, 2010. The tenants then vacated the unit at a specific time unknown to the landlord, and they did not inform him of their forwarding address.

The landlord testified that he found the unit in need of cleaning and repairs. Following the completion of cleaning and repairs, the landlord undertook efforts to advertise the unit for rent. Ultimately, new renters were not found until January 1, 2011.

Analysis

The full text of the Act, regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Section 45 of the Act speaks to **Tenant's notice**, and provides in part:

45(1) A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

(a) is not earlier than one month after the date the landlord receives the notice, and

(b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the landlord has established a claim of \$3,800.00. This quantum is calculated as follows:

\$2,100.00: unpaid rent / loss of rental income for November 2010

\$2,100.00: loss of rental income for December 2010

\$100.00: filing fee

- Sub-total: \$4,300.00
- Minus tenants' payment of \$500.00
- Balance: \$3,800.00 (\$4,300.00 - \$500.00)

I order that the landlord retain the security deposit of \$1,050.00, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$2,750.00 (\$3,800.00 - \$1,050.00).

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$2,750.00**. Should it be necessary, this order may be served on the tenants, filed in the 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*.

DATE: March 11, 2011

Residential Tenancy Branch