



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes: OPR/OPB, MNR, FF

Introduction

This hearing dealt with the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

Issues to be decided

- Whether the landlord is entitled to any or all of the above under the Act

Background and Evidence

Pursuant to a written tenancy agreement, the fixed term of tenancy is from November 1, 2010 to March 31, 2011. Monthly rent is \$569.00.

As a result of rent which the landlord testified remained overdue on March 1, 2011, the landlord issued a 10 day notice to end tenancy for unpaid rent dated March 18, 2011. The tenant acknowledged receipt of the notice on that same date. A copy of the notice was submitted into evidence. Subsequently, the landlord testified that the tenant has made no payment toward rent. There is no dispute that the tenant continues to reside in the unit.

During the hearing the tenant made reference to circumstances surrounding a previous dispute between the parties which were addressed in a hearing on September 30, 2010. By way of decision of the same date, an order of possession and a monetary order were issued in favour of the landlord. That decision reads, in part, as follows:

A mediated discussion ensued and the parties agreed that the order of possession would be effective on October 31, 2010 and would be held in abeyance pending further discussion. The parties agreed to meet to negotiate payment of arrears and damages and the possibility of reinstating the tenancy.

It appears that following the above dispute, the current 5 month fixed term tenancy was entered into by the parties.

The tenant requested an adjournment in order to gather evidence to support her position which is that recurring disputes between the parties have, in part, been the

result of changes in the landlord's portfolio officer and the ensuing confusion in regard to payment plans for rental arrears and damages. Despite the tenant's claim that she had been in hospital, in view of the time available to her between the point at which she was served with the landlord's application for dispute resolution, and the scheduled time of the hearing, the tenant's request was denied.

Analysis

Based on the documentary evidence and testimony, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated March 18, 2011. I further find that in the absence of any evidence that the tenant paid the outstanding rent within 5 days of receiving the notice, or that she applied to dispute the notice, the landlord has established entitlement to an order of possession. The landlord agreed to April 30, 2011 as the effective date of the notice; this will enable an opportunity for the parties to clarify whether there is any evidence that the landlord has erred in determining that the tenant is in arrears with the rent as claimed in relation to the current tenancy agreement.

As for the monetary order, I find that the landlord has established a claim of \$1,757.00. This is comprised of \$1,707.00 in unpaid rent combined for February, March & April 2011 (3 x \$569.00), in addition to the \$50.00 filing fee.

Conclusion

I hereby issue an order of possession in favour of the landlord effective **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.

Pursuant to section 67 of the Act, I hereby issue a monetary order in favour of the landlord in the amount of **\$1,757.00**. Should it be necessary, this order may be served on the tenant, 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: April 26, 2011

Residential Tenancy Branch