



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPB, OPQ, MND, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's application for an Order of Possession and a Monetary Order for damage to the rental unit and authority to retain the security deposit.

The landlord identified two co-tenants in making this application; however, I noted that the tenancy agreement provided by the landlord is signed by only one tenant (referred to by initials FMG) and I have amended this application to name only FMG as the tenant. Accordingly, this decision and any Orders that accompany it name only the tenant identified by initials FMG.

The tenant did not appear at the hearing. The landlord affirmed that FMG was served with notification of this hearing on May 12, 2011 in person at the rental unit and in the presence of a witness. Having been satisfied the tenant was served in a manner that complies with the Act, I proceeded to hear from the landlord without the tenant present.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a Monetary Order for damage to the rental unit?

Is the landlord authorized to retain the tenant's security deposit?

Background and Evidence

The tenancy agreement reflects a tenancy that commenced July 1, 2010 and requires the tenant to pay rent of \$950.00 on the 1st day of every month. The landlord issued a 1 Month Notice to End Tenancy for Cause (the Notice) on April 30, 2011 and personally served it upon the tenant on that date. The tenant did not dispute the Notice.

The landlord testified that the tenant removed some belongings from the rental unit on June 1, 2011 but the tenant has not returned the keys and other possessions may remain in the unit.

In filing this Application for Dispute Resolution on May 11, 2011 the landlord made a monetary claim for damages and carpet cleaning in the amount of \$573.00.

Provided as documentary evidence for this proceeding were copies of the tenancy agreement, Notice to End Tenancy, and letter written to the tenant on April 27, 2011.

Analysis

Section 45 of the Act provides that where a tenant receives a 1 Month Notice to End Tenancy for Cause, the tenant has 10 days to dispute the Notice by filing an Application for Dispute Resolution. If the tenant does not dispute the Notice the tenant is conclusively presumed to have accepted that the tenancy will end and the tenant must vacate by the effective date on the Notice.

I was satisfied that the tenant was served with the Notice on April 30, 2011 and did not dispute the Notice. Accordingly, I find the tenancy ended on May 31, 2011. In the event the tenant has not already vacated or abandoned the rental unit, I provide the landlord with an Order of Possession effective two (2) days after service upon the tenant. The Order of Possession may be enforced in The Supreme Court of British Columbia as an Order of that court.

With respect to the monetary claim I find the claim was made before the tenancy ended and was premature. Therefore, I dismissed the monetary claim with leave to reapply. The landlord has up to two years from the time the tenancy ended to make a monetary claim against the tenant.

In light of the above, I deny the landlord's request to retain the security deposit and it shall remain in trust to be administered in accordance with the Act. The landlord is at liberty to make a future claim against the security deposit.

Conclusion

The tenancy has ended and the landlord is provided an Order of Possession effective two (2) days after service upon the tenant.

The landlord's monetary claim is dismissed with leave to reapply. The security deposit remains in trust to be administered in accordance with the Act.

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: June 03, 2011.

Residential Tenancy Branch