

Decision

Dispute Codes: OPR, MT, CNR, MNR, MNDC, MNSD, ERP, FF

Introduction

This hearing was convened in response to 2 applications: i) by the landlord for an order of possession / a monetary order as compensation for unpaid rent or utilities / compensation for damage or loss under the Act, regulation or tenancy agreement / retention of the security deposit / and recovery of the filing fee; ii) by the tenant for more time to make an application to cancel a notice to end tenancy / cancellation of a notice to end tenancy / and an order instructing the landlord to make emergency repairs for health and safety reasons. Both parties participated in the hearing and gave affirmed testimony.

During the hearing the landlord withdrew the application to recover fees assessed for the late payment of rent. The tenant withdrew the application for an order instructing the landlord to make emergency repairs for health and safety reasons.

Issues to be decided

- Whether either party is entitled to any of the above under the Act, Regulation or tenancy agreement

Background and Evidence

Pursuant to a written tenancy agreement, the term of tenancy is from June 1, 2011 to May 31, 2012. Monthly rent of \$820.00 is payable in advance on the first day of each month. A security deposit of \$410.00 and a FOB deposit of \$20.00 were both collected near the start of tenancy.

As to rent for June, a payment limited to \$410.00 was made on May 30, 2011, and a further \$100.00 was paid on June 9, 2011, leaving a balance owing for June of \$310.00 (\$820.00 - \$510.00).

The landlord issued a 10 day notice to end tenancy for unpaid rent or utilities dated June 14, 2011, which the landlord states was posted on the tenant's door on that same date. The tenant claims that for various reasons the notice did not come to his attention until June 24, 2011. Despite this, there is no disagreement between the parties that

rent for June of \$310.00 is still outstanding, and that no rent whatsoever has been paid for July 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/

Based on the documentary evidence and the testimony of the parties, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated June 14, 2011. Even if I allow that the tenant has exceptional reasons to account for his late receipt of the notice, and that for this reason he did not apply to dispute it within 5 days after it was deemed served (3 days after posting on the tenant's door), there is no dispute that rent remains outstanding for both June and July 2011. In the result, I find that the landlord is entitled to an order of possession.

As for the monetary order, I find that the landlord has established a claim of \$1,180.00, comprised of unpaid rent for June of \$310.00, unpaid rent for July of \$820.00, in addition to the \$50.00 filing fee. I order that the landlord retain the security deposit of \$410.00, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$770.00 (\$1,180.00 - \$410.00). The parties are ordered to resolve the disposition of the \$20.00 FOB deposit between them at the end of tenancy.

Conclusion

I hereby issue an order of possession in favour of the landlord effective not later than **two (2) days** after service on the tenant. 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 \$770.00. 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: July 21, 2011

Residential Tenancy Branch