



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC, MNSD, FF

Introduction

This was a cross-application hearing.

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenant has requested compensation for damage or loss under the Act, an order the landlord comply with the Act and to recover the filing fee costs.

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for an Order of possession as a result of frustration.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony evidence and to make submissions to me. I have considered all of the evidence and testimony provided.

Issue(s) to be Decided

Is the tenant entitled to compensation in the sum of \$2,000.00 for a loss of quiet enjoyment of his rental unit?

Must the landlord be Ordered to comply with the Act?

Is the landlord entitled to an Order of possession as the result of frustration?

Is the tenant entitled to filing fee costs?

Mutually Settled Agreement

During the hearing the parties agreed to the following, in satisfaction of the claims made:

- The tenancy will end at 4 p.m. on September 28, 2011;
- The tenant will provide the landlord with vacant possession of the unit by 4 p.m. on September 28, 2011;
- On September 28, 2011, at 4 p.m. the parties will meet at the rental unit;

- On September 28, 2011, at 4 p.m. the landlord will give the tenant a certified cheque or money Order in the sum of \$3,500.00, in satisfaction of the tenant's claim;
- The landlord will be issued an Order of possession effective September 28, 2011, at 4 p.m. that may be served to the tenant if vacant possession is not provided;
- The tenant will be issued a monetary order in the sum of \$3,500.00 which may be enforced if the landlord fails to provide the \$3,500.00 payment, as agreed, on September 28, 2011, at 4 p.m.

The tenant may enforce the monetary Order, should payment not be provided by the landlord and the landlord may enforce the Order of possession should the tenant fail to provide vacant possession as agreed.

Conclusion

The parties have reached a mutually settled agreement, as outlined above.

Based on the mutual agreement of the parties I grant the tenant a monetary Order for \$3,500.00. This satisfies the tenant's claim against the landlord. In the event that the landlord does not comply with this Order, it may be served on the landlord, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court

Based on a mutual agreement of the parties the landlord has been granted an Order of possession that is effective on September 28, 2011, at 4 p.m. This Order may be served on the tenant, filed with the Supreme Court of British Columbia 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: September 22, 2011.

Residential Tenancy Branch