

DECISION

Dispute Codes FF, MNDC, MNR, MNSD, OPR

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent and loss of income?

Background and Evidence

The tenancy began on or about March 1, 2011. Rent in the amount of \$900.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$500.00. This amount was established when the tenant rented the unit at a rate of \$1000.00. This is the second hearing regarding this tenancy. In a previous decision by another Dispute Resolution Officer, a One Month Notice to End Tenancy for Cause was upheld and the tenancy was to end on July 31, 2011. The tenant that participated in this conference gave evidence that she moved out on August 17, 2011 and gave her keys to the remaining roommate who she believes moved out on August 25, 2011. The tenant does not feel that there is any rent owing as she was told verbally by the previous Dispute Resolution Officer that she “didn’t have to pay any rent”.

The landlord testified that they have only received one set of keys and that she still has not been given possession of the unit as the roommate still has some items in the unit and not returned the remaining set of keys. The landlord is seeking loss of revenue for the months of August and September.

Analysis

In the tenants own evidence she admitted that she overstayed in the unit. The belief that she did not have to pay any rent was incorrect. The previous Dispute Resolution Officer made it clear in their written decision that the tenancy was terminated as of July 31, 2011. I find that the tenants have wilfully and knowingly overstayed in the rental unit. Based on the above facts I find that the landlord is entitled to an order of possession. The tenant must be served with the order of possession. 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.

As for the monetary order, I find that the landlord has established a claim for \$1800.00 in lost revenue as the landlord was unable to re-rent the unit with the tenants not surrendering possession of the unit. The landlord is also entitled to recovery of the \$50.00 filing fee. I order that the landlord retain the \$500.00 deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1350.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlord is granted an order of possession and a monetary order for \$1350.00. The landlord may retain the security deposit.

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 08, 2011.

Residential Tenancy Branch