



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

CNC, OPR, OPC, MNR, FF

Introduction

This was a cross-application hearing.

The tenant applied to cancel a Notice ending tenancy issued for cause and unpaid rent and to recover the filing fee costs from the landlord.

The landlord applied requesting an order of possession for unpaid rent, compensation for unpaid rent and to recover the filing fee costs from the tenant.

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.

Mutually Settled Agreement – End of Tenancy

During the hearing the parties agreed to the following:

- The tenant will vacate the rental unit on October 31, 2011, by midnight; and
- The landlord will be issued an Order of possession effective no earlier than midnight on October 31, 2011.

Issue(s) to be Decided

Is the landlord entitled to compensation for unpaid rent in the sum of \$3,750.00?
Is either party entitled to filing fee costs?

Background and Evidence

This fixed-term tenancy commenced on May 15, 2011; at the start of the tenancy the tenant paid rent in a lump sum to September 15, 2011, inclusive. Rent was \$2,500.00 per month. A security deposit and pet deposit in the sum of \$1,250.00 and \$250.00 respectively, were paid on April 20, 2011.

A copy of a tenancy agreement supplied as evidence indicated the tenancy was to commence on May 1, 2011; the parties agreed there was a delay in the start of the tenancy and that rent was due by the 16th day of each month, not on the first day.

The tenant confirmed that no rent has been paid since September 15th; the tenant testified that the unit has been devalued due to items left in the unit by the landlord. The tenant has not obtained any Order allowing deductions from rent owed.

The landlord did not wish to set off any amount owed, from the deposits held in trust.

Analysis

After considering the evidence I find that the landlord is entitled to compensation for unpaid rent in the sum of \$1,250.00 for the last 2 weeks of September and \$2,500.00 for October, 2011.

The landlord is holding the deposits in trust, which must be disbursed as required by the Act.

As the landlord's monetary application has merit I find the landlord is entitled to filing fee costs.

Conclusion

By mutual agreement the landlord has been issued an Order of possession effective at **12:00 midnight on October 31, 2011**. This Order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

Based on these determinations I grant the landlord a monetary Order for \$3,800.00 comprised of unpaid September and October, 2011, rent and the \$50.00 filing fee cost. In the event that the tenant does not comply with this Order, it may be served on the

tenant, filed with the Province of British Columbia 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*.

Dated: October 25, 2011.

Residential Tenancy Branch