



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF, O

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions. The female tenant was represented by an agent/advocate assigned to her as she is currently hospitalized, but in frequent contact with the agent. The landlord testified that she received a written notice to end this tenancy by September 30, 2011 from the male tenant on August 31, 2011. The landlord testified that she sent copies of the landlord's dispute resolution hearing package to both tenants by registered mail on October 8, 2011. She provided Canada Post Tracking Numbers to confirm this mailing. The female tenant's agent testified that the female tenant received her package. I am satisfied that the parties served the above documents to one another in accordance with the *Act*.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent? Is the landlord entitled to a monetary award for loss arising out of this tenancy? Is the landlord entitled to a monetary award for damage arising out of this tenancy? Is the landlord entitled to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenants?

Background and Evidence

This tenancy commenced initially as a six-month fixed term tenancy, subsequently converted to a periodic tenancy, on July 1, 2010. Monthly rent as of July 1, 2011 was

set at \$824.00, plus \$25.00 for rental of a Murphy Bed and \$45.00 for parking, payable in advance on the first of each month.

The landlord testified that the male tenant provided written notice that the tenants would be ending their tenancy as of September 30, 2011. Although the male tenant, the female tenant's ex-husband has vacated the rental unit, the landlord applied for dispute resolution when the female tenant did not end her tenancy by that date and did not pay the rent for October 2011. The landlord said that \$894.00, the amount then owing, was paid towards this tenancy on October 18, 2011. The landlord said that the landlord accepted this amount for use and occupancy only.

The landlord said that she was still seeking an Order of Possession as the old tenancy to the two tenants has ended. The female tenant's agent said that the female tenant's brother recently came to Canada over the past few weeks. She testified that the landlord rejected his offer to pay her rent until the end of January 2012 to enable her to get healthy and find another residence. The agent said that she has been given authority to act on the female tenant's behalf and that the tenant remains mentally competent to look after her affairs.

Analysis

Pursuant to section 63 of the *Act*, the dispute resolution officer may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

The parties in attendance agreed to resolve their dispute on the following terms:

1. The parties agreed that the tenancy will be amended by removing the male tenant's name from the residential tenancy agreement as of November 1, 2011. The parties agreed that the continuing tenancy will be between the landlord and the female tenant, TLY, only, and will run until January 31, 2012, if all other terms of this agreement are satisfied.
2. The landlord agreed to withdraw the current application to end this tenancy and obtain an Order of Possession.
3. The tenant agreed to make a monetary payment of \$2,682.00 for the three-month period commencing on November 1, 2011, by November 15, 2011.
4. The parties agreed that this tenancy will end by 1:00 p.m. on January 31, 2012, by which time the female tenant will have vacated the rental unit.

5. The parties agreed that the terms of this agreement constituted a final and binding resolution of all issues in dispute arising out of this tenancy at this time.

Conclusion

To give effect to the settlement reached between the parties and as discussed at the hearing, I remove the male tenant's name from this tenancy as of November 1, 2011. I continue this tenancy between the landlord and the female tenant, TLY, as of November 1, 2011.

To give effect to this settlement, I issue the attached Order of Possession to be used by the landlord if the tenant does not vacate the rental premises in accordance with the agreement reached between her agent and the landlord. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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 31, 2011

Residential Tenancy Branch