



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

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 pursuant to section 67;
- authorization to retain all or a portion of the tenant's 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 tenant 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 tenant who attended the hearing and was authorized to speak on both tenants' behalf (the tenant) confirmed that the tenants received the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) posted on the tenants' door on October 5, 2011. The tenant also confirmed that the tenants received copies of the landlord's dispute resolution hearing package handed to the tenants on October 29, 2011. I am satisfied that the landlord provided these documents and the landlord's written evidence to the tenants in accordance with the *Act*.

At the commencement of the hearing, the landlord testified that the tenants are current with their payments. He said that as long as the tenants pay their upcoming December 2011 rent on time, he would be willing to allow the tenancy to continue.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

This tenancy commenced as a fixed term tenancy on August 1, 2010. At the expiration of the initial term of this tenancy, the tenancy continued on a month-to-month basis. Monthly rent is set at \$860.00, payable in advance on the first of each month. The landlord continues to hold the tenants' \$430.00 security deposit paid on August 1, 2010.

The landlord applied for a monetary award of \$860.00 for unpaid rent owing for October 2011. The landlord entered into written evidence a copy of the 10 Day Notice which noted unpaid rent owing on October 5, 2011 in the amount of \$860.00. The landlord entered into written evidence copies of receipts issued by the landlord for payments made from July 2011 until October 25, 2011. These receipts showed that the landlord accepted the tenants' 860.00 payment for September 2011 rent on October 4, 2011 for use and occupancy only. The amount shown as owing in the 10 Day Notice was paid by the tenants on October 25, 2011 and accepted for use and occupancy only, as noted on the landlord's receipt. The parties agreed that the tenants also paid \$860.00 for November 2011, accepted again for use and occupancy only.

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.

The landlord was entitled to end this tenancy and obtain an Order of Possession based on the tenants' failure to pay the \$860.00 amount identified as unpaid rent for October 2011 within five days of receiving the 10 Day Notice. 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.

Both parties agreed to resolve all issues between them on the following basis:

1. The landlord agreed to withdraw the application for a monetary Order.
2. The tenants committed to pay their December 2011 rent in its entirety and the \$50.00 filing fee for the landlord's application for dispute resolution by the end of the day on December 1, 2011.
3. The parties agreed that if the tenants abide by the terms of this agreement, the 10 Day Notice issued on October 5, 2011 will be cancelled.
4. The parties agreed that if the tenants do not abide by the terms of this agreement, the tenancy will end by 1:00 p.m. on December 3, 2011, by which time the tenants will have vacated the rental unit.
5. The parties agreed that this agreement constitutes a final and binding resolution of all issues presently in dispute between them arising out of this tenancy.

Conclusion

To give effect to the settlement reached between the parties and as discussed at the hearing, I issue the attached Order of Possession to be used by the landlord only if the tenants do not abide by the monetary terms of this agreement. 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: November 18, 2011

Residential Tenancy Branch