

## **Decision**

**Dispute Codes:** OPR, MNR, MNSD, FF / CNC, FF

### **Introduction**

This hearing was convened in response to 2 applications: i) by the landlord for an order of possession / a monetary order as compensation for unpaid rent or utilities / retention of the security deposit / and recovery of the filing fee; ii) by the tenants for cancellation of a notice to end tenancy / and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

### **Issues to be decided**

- Whether either party is entitled to any of the above under the Act, Regulation or tenancy agreement

### **Background and Evidence**

Pursuant to a written tenancy agreement, the month-to-month tenancy began on November 1, 2009. Monthly rent of \$1,100.00 is payable in advance on the first day of each month, and a security deposit of \$550.00 was collected.

Arising from rent and utilities which remained unpaid when due on November 1, 2011, the landlord issued a 10 day notice to end tenancy for unpaid rent or utilities dated November 6, 2011. The notice was served by way of posting on the tenants' door on that same date. A copy of the notice was submitted into evidence. A dispute continues between the parties around whether or not the tenant hand delivered a cheque for rent / utilities to an employee of the landlord's at the landlord's place of business, on or about November 2, 2011.

During the hearing the parties exchanged views on a number of issues giving rise to the dispute, the details of which will not be set out here. The tenant also stated that he plans to vacate the unit by the end of November 2011.

### **Analysis**

Section 63 of the Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the parties during the hearing led to a partial resolution. Specifically, it was agreed as follows:

- that the tenant will pay the landlord \$1,450.00, and that a monetary order will be issued in favour of the landlord to that effect;
- that the above payment is comprised as follows:
  - \$1,100.00: rent for November 2011
  - \$175.00: utilities for October 2011
  - \$175.00: utilities for November 2011
- that the above payment will be made by cheque;
- that the above cheque will be hand-delivered to an employee of the landlord's at the landlord's place of business, by no later than 10:00 pm., Thursday, November 24, 2011;
- that the tenants will vacate the unit by November 30, 2011, and that an order of possession will be issued in favour of the landlord to that effect;
- that the parties will undertake to schedule a move-out condition inspection at the end of tenancy;
- that during the move-out condition inspection the parties will attempt to resolve between them the disposition of the security deposit of \$550.00;

As the parties have achieved at least a partial resolution, their respective applications for recovery of the filing fee are hereby dismissed. Both parties have the option of filing further applications for dispute resolution in the event that they are unable to settle any new or outstanding matters in dispute between them by the end of tenancy.

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca) The attention of the parties is drawn to the following particular sections of the Act:

**Section 32: Landlord and tenant obligations to repair and maintain**

**Section 35: Condition inspection: end of tenancy**

**Section 37: Leaving the rental unit at the end of a tenancy**

**Section 38: Return of security deposit and pet damage deposit**

**Conclusion**

I hereby issue an **order of possession** in favour of the landlord effective not later than **1:00 p.m., Wednesday, November 30, 2011**. This order must be served on the tenants. Should the tenants 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.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$1,450.00**. Should it be necessary, this order may be served on the tenants, filed in the 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*.

**DATE: November 24, 2011**

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Residential Tenancy Branch