



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with the landlords' 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; and
- authorization to recover their 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 male landlord, witnessed by the female landlord, testified that he handed the tenant a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on November 29, 2011. The landlords also testified that they sent the tenant a copy of the 10 Day Notice by registered mail on November 30, 2011. The landlords entered into written evidence a copy of the Canada Post Customer Receipt and Tracking Number to confirm this mailing. The tenant denied having received either of these 10 Day Notices. Registered mail and personal delivery are both acceptable ways to serve documents in accordance with section 89 of the *Act*. In accordance with section 90(a) of the *Act*, the tenant is deemed to have been served by the 10 Day Notice sent by the landlords on November 30, 2011 on the fifth day after this mailing, December 5, 2011. Based on the sworn testimony of the landlords and their written evidence, I am satisfied that the tenant was served with the 10 Day Notice.

The landlords testified that they sent the tenant a copy of their dispute resolution hearing package by registered mail and handed another copy to him on December 7, 2011. The tenant confirmed that he did receive the landlords' hearing package a few weeks before this hearing. I am satisfied that the landlords served their hearing packages in accordance with the *Act*.

Issues(s) to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent? Are the landlords entitled to a monetary award for unpaid rent? Are the landlords entitled to recover the filing fee for their application from the tenant?

Background and Evidence

The tenant said that he moved into one of the suites in this rental property on November 15, 2010 with his uncle. When his uncle left the premises, he moved into another rental unit in this property a few months later. He said that his initial tenancy was on a month-to-month basis, but this was changed to a six-month fixed term tenancy on December 1, 2011 after the current landlords took possession of the property on November 15, 2011. Monthly rent is set at \$750.00, payable in advance on the first of the month. The tenant said that he paid a \$375.00 security deposit on or about January 9, 2011.

The tenants entered their oral evidence with the assistance of their daughter who acted as their agent and translator during this hearing. The landlords applied for an Order of Possession and a monetary award of \$1,125.00 because they maintained that the tenant had not paid rent to them for the last half of November 2011, any of December 2011, or his security deposit.

The tenant testified that he paid his November 2011 rent to the previous landlord when it was due on November 1, 2011. He also said that he has already paid a security deposit for this tenancy and whether or not the previous landlord forwarded this security deposit to the current landlord is not his issue.

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.

Both parties agreed to settle their dispute on the following terms:

1. The tenant agreed to pay \$750.00 for his December 2011 rent in cash by 1:00 p.m. on December 26, 2011.
2. The tenant agreed to provide a copy of his receipts for the payment of his security deposit and for his November 2011 rent paid to the previous landlord by 1:00 p.m. on December 26, 2011.
3. The landlords agreed to cancel their 10 Day Notice if the tenant met the above terms of this agreement.
4. Both parties agreed that if the tenant did not abide by the terms of this agreement by 1:00 p.m. on December 26, 2011, the tenancy would end within 2 days.

5. Both parties agreed that if the tenant did not abide by the monetary terms of this agreement, the landlord would be given a monetary award for \$750.00 for unpaid rent for December 2011.
6. Both parties agreed that these particulars constitute a final and binding resolution of all issues between them 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 issue the attached Order of Possession to be used by the landlord **only** if the tenant does not abide by the terms of their 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.

In order to implement the above settlement reached between the parties, I issue a monetary Order in the landlords' favour in the amount of \$750.00 to be used **only** in the event that the tenant does not abide by the monetary terms of the above settlement. The landlord is provided with these Orders in the above terms and the tenant must be served with a copy of these Orders as soon as possible after December 26, 2011 if he does not abide by the monetary terms of their agreement. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: December 23, 2011

Residential Tenancy Branch