



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, MNSD, FF / CNR

Introduction

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

Issue(s) 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 August 1, 2011. Monthly rent of \$700.00 is payable in advance on the first day of each month, and a security deposit of \$350.00 was collected.

Evidence includes reference to an earlier decision dated November 8, 2011 (file # 781431) in a dispute between these same parties. In part, the decision provides that the tenants "can deduct a one-time amount of \$100.00 from the January 2012 rent." Accordingly, on January 1, 2012 the amount of rent payable was limited to \$600.00. However, as no rent was paid on that date, the landlord issued a 10 day notice to end tenancy for unpaid rent or utilities dated January 17, 2012. The notice was served in person on the tenants on January 18, 2012. A copy of the notice was submitted in evidence. Subsequently, while the tenants filed an application to dispute the notice on January 23, 2012, it was not until February 1, 2012 when they paid \$600.00 for January's rent.

Evidence includes reference to yet another decision in a dispute between these same parties. This decision is dated January 10, 2012 (file # 785357). While the tenants filed an application for review of this decision, by review decision dated January 27, 2012,

the decision and orders dated January 10, 2012 were confirmed. In part, the decision of January 10, 2012 provides the tenants with authority for “a one-time reduction of \$100.00 for February 2012 rent.” However, on February 1, 2012 the tenants made a payment toward February’s rent in the limited amount of \$300.00. The tenant argues that heat in the unit has been inadequate, that required repairs have still not been completed, and that a further reduction in rent is therefore warranted.

Following issuance of the 10 day notice dated January 17, 2012, as above, the landlord issued a 2 month notice to end tenancy for landlord’s use of property dated January 30, 2012. The notice was served in person on or about that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenants must vacate the unit is March 31, 2012. The reason shown on the notice for its issuance is as follows:

The rental unit will be occupied by the landlord or the landlord’s spouse or a close family member (father, mother, or child) of the landlord or the landlord’s agent.

The landlord’s original application has not been amended to include application for an order of possession pursuant to the 2 month notice, and the tenants’ original application has not been amended to include application to have the 2 month notice set aside.

During the hearing the parties exchanged views on some of the circumstances surrounding the dispute and undertook to achieve a resolution.

Analysis

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

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 led to a resolution. Specifically, it was agreed as follows:

- that both parties wish to bring their on-going dispute to a conclusion, and to avoid any further need to file more applications for dispute resolution;
- that the landlord waives entitlement to any additional payment of rent for February 2012;

- that the tenants will vacate the unit by not later than March 31, 2012, and that an order of possession will be issued in favour of the landlord to that effect;
- that the tenants will not be required to make any payment of rent for the month of March 2012;
- that the above particulars comprise full and final settlement of all issues in dispute for both parties, which arise out of this tenancy and which are presently before me.

Finally, the parties are encouraged to resolve the disposition of the security deposit directly between them at the end of tenancy. In this regard, the attention of the parties is drawn to section 38 of the Act which addresses **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., Saturday, March 31, 2012**. 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.

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: February 13, 2012.

Residential Tenancy Branch