



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNR, MNDC / OPR

Introduction

This hearing was scheduled in response to the tenant's application for cancellation of a notice to end tenancy / and a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement. Both parties participated in the hearing and gave affirmed testimony. During the hearing the landlord's agent made an oral request for an order of possession.

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 fixed term of tenancy for the "caretaker suite" is from November 1, 2011 to October 31, 2012. Monthly rent for the unit is \$1,200.00, however, the building caretaker's rent is reduced to \$800.00 pursuant to a \$400.00 "caretaker rental subsidy."

By letter dated November 16, 2011, the landlord informed the tenant that "effective immediately (November 18, 2011)" his position as building caretaker was terminated. The letter further informs the tenant that effective December 1, 2011, he will no longer be eligible for the \$400.00 monthly "caretaker rental subsidy" and his monthly rent will therefore be \$1,200.00. In other words, when the tenant's employment was terminated, his tenancy continued but the amount of his monthly rent increased pursuant to the withdrawal of the "caretaker rental subsidy."

The parties agree that for a number of reasons the tenant did not ultimately pay any rent for November 2011, which was the tenant's first month of tenancy and first month of employment as building caretaker. The full rent of \$1,200.00 was paid for December 2011, however, no rent whatsoever has been paid since that time and the tenant continues to reside in the unit.

The landlord issued 3 separate 10 day notices to end tenancy for unpaid rent, as follows: January 16 & 27, 2012 & February 1, 2012. The amount of outstanding rent shown on each of the 3 notices is the same: \$1,040.00. The landlord testified that this amount is comprised of the full amount of November's rent of \$1,200.00, pro-rated to reflect that employment and the "caretaker rental subsidy" were terminated on or about November 18, 2011. The landlord testified that the notices were served by way of registered mail. The tenant's application to dispute the first notice was filed on January 24, 2012.

The tenant testified that aspects of his dispute which more directly concern the employer / employee relationship with the landlord have been taken to the attention of the Employment Standards Branch, whose responsibility includes the administration of the Employment Standards Act and Regulation.

During the hearing the landlord made an oral request for an order of possession.

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 55 of the Act speaks to **Order of possession for the landlord**, and provides in part:

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,

(a) the landlord makes an oral request for an order of possession, and

(b) the director dismisses the tenant's application or upholds the landlord's notice.

Based on the documentary evidence and the affirmed testimony of the parties, I find that the tenant was served with 3 separate 10 day notices to end tenancy for unpaid rent. I find that the first of these notices was dated January 16, 2012. While I find that the tenant filed an application to dispute the first notice within 5 days of receiving it (section 90 of the Act: **When documents are considered to have been received**), I

also find that he made no further payment toward rent. Accordingly, the tenant's application to cancel the notice to end tenancy is hereby dismissed and, I hereby issue and order of possession in favour of the landlord pursuant to the landlord's oral request during the hearing.

Having considered the figures set out in relation to the tenant's application for compensation for damage or loss under the Act, Regulation or tenancy agreement, I find that there is insufficient evidence to support any entitlement under the subject legislation or the tenancy agreement. In the result, this aspect of the tenant's application is hereby dismissed.

Conclusion

The tenant's application is hereby dismissed in its entirety.

I hereby issue an **order of possession** in favour of the landlord effective not later than **1:00 p.m., Wednesday, February 29, 2012**. This order must be served on the tenant. Should the tenant 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 15, 2012.

Residential Tenancy Branch