



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF, MT, CNR, OPT

Introduction

This hearing dealt with applications from the landlord and the tenant pursuant to the *Residential Tenancy Act* (the *Act*). The landlord applied for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security and pet damage deposits 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.

The tenant's application for dispute resolution was for:

- more time to make an application to cancel the landlord's 10 Day Notice to End Tenancy (the 10 Day Notice) pursuant to section 66 (an application that was unnecessary because the tenant filed her application within the time period for doing so);
- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46; and
- an Order of Possession of the rental unit pursuant to section 54.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to discuss their applications with one another. The tenant confirmed that she received the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) posted on her door on February 10, 2012. Both parties agreed that they received copies of one another's dispute resolution and evidence packages sent by registered mail on February 24, 2012 and February 29, 2012 respectively. I am satisfied that the parties served these documents to one another in accordance with the *Act*.

Issues(s) to be Decided

Should the tenant's application to cancel the landlord's notice to end tenancy be allowed? Is the landlord entitled to an end to this tenancy and an Order of Possession for unpaid rent? Is the landlord entitled to a monetary award for unpaid rent? Is the

landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

This six-month fixed term tenancy commencing on December 9, 2011 is scheduled to end on June 30, 2012. Monthly rent is set at \$775.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$387.50 security deposit and \$100.00 pet damage deposit, both paid on December 9, 2011. The parties agreed that the tenancy agreement called for the tenant's payment of a pet damage deposit of \$387.50, \$287.50 of which remains outstanding.

The parties agreed that the \$775.00 in February 2012 rent identified as outstanding in the landlord's 10 Day Notice remains in arrears. They agreed that the landlord has received a \$775.00 payment from the Ministry of Social Development for the tenant's March 2012 rent. The landlord reduced the amount of her requested monetary award from the \$1,550.00 identified in her application to \$925.00 to reflect the unpaid February 2012 rent and an unpaid portion of the tenant's pet damage deposit.

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 resolve all issues in dispute at this time arising out of their applications on the following terms:

1. Both parties agreed that in addition to all scheduled monthly rental payments for upcoming months, the tenant would pay the landlord:
 - a. \$400.00 by 5:00 p.m. on March 16, 2012;
 - b. \$200.00 by 5:00 p.m. on March 21, 2012;
 - c. \$87.50 by 5:00 p.m. on March 28, 2012; and
 - d. \$87.50 by 5:00 p.m. on April 16, 2012.
2. Both parties agreed that if the tenant complies with the terms of this agreement, the landlord's 10 Day Notice of February 10, 2012 is cancelled and the tenancy will continue as per the terms of their tenancy agreement until the end of the fixed term.

3. Both parties agreed that if the tenant does not comply with the terms of this agreement, this tenancy will end by 1:00 p.m. on March 20, 2012, by which time the tenant will vacate the rental premises.
4. Both parties agreed that this final and binding agreement resolves all matters in dispute 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 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.

In order to implement the above settlement reached between the parties, I issue a monetary Order in the landlord's favour in the amount of \$337.50. This amount allows the landlord to recover \$775.00 in unpaid rent for February 2012, the landlord's \$50.00 filing fee for her application, and to retain the tenant's security and pet damage deposits (i.e., a total of \$487.50) in partial satisfaction of the monetary award issued. I deliver this Order to the landlord in support of the above agreement for use **only** in the event that the tenant does not abide by the terms of the above settlement. As per the parties' agreement, I allow the landlord to retain the tenant's security deposit **only** in the event that the tenant does not abide by the terms of this settlement. As per the parties' agreement, I allow the landlord to recover her filing fee for her application **only** in the event that the tenant does not abide by the terms of this 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 should the tenant fail to comply with the terms of this settlement 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: March 08, 2012

Residential Tenancy Branch