



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, FF, OTHER

Introduction

This hearing was convened in response to the landlord's application seeking:

1. A monetary Order;
2. An Order allowing the landlord to retain the security deposit;
3. An Order of Possession based on a fixed term tenancy that has ended; and
4. Recovery of the filing fee paid for this application.

Both parties appeared and gave evidence under oath.

Issue(s) to be Decided

Is the landlord entitled to the Orders sought?

Background and Evidence

The landlord submitted the written fixed term tenancy agreement entered into by the parties. It states that this tenancy began on April 1, 2011 "...and is for a fixed term ending on the 31 day of March 2012" and "At the end of this time the tenancy is ended and the tenant must vacate the rental unit". The landlord states that the tenants have not paid rent for March and are refusing to move at the end of March. The landlord is seeking an Order of Possession and seeking rent for March 2012 in the sum of \$1,650.00 she is also seeking to retain the security deposit of \$825.00 paid March 24, 2011 in the sum of \$825.00 in partial satisfaction of this claim.

The landlord is also seeking "other". The landlord states that the tenants have placed large notices in the rental unit windows. These notices make derogatory statements about the landlord and are discouraging prospective tenants. The landlord submitted photographs of the Notices which state in part:

Read before you rent

Forcef out! Landlady hates our garden
P*ssed off occupants prepared to OCCUPY
Don't rent this space...unless you're cool with the landlady deciding when you move
*this landlady uses a trick to keep all the power

The tenant agrees that she signed the tenancy agreement but says she had no intention of it being a fixed term tenancy. The tenant asked the Dispute Resolution Officer to look at the photos to see

Analysis

When parties enter into a fixed term tenancy they have two options to choose from as to what occurs when the fixed term ends, the options are:

1. At the end of this time the tenancy will continue on a month to month basis, or another fixed length of time...

Or

2. At the end of this time the tenancy is ended and the tenant must vacate the rental unit. IF YOU CHOOSE [this option] BOTH THE LANDLORD AND TENANT MUST INITIAL HERE.

In this case both parties have initialled option 2. As the Tenancy Agreement states that this tenancy is set to end on March 31, 2012 this tenancy shall end on that date and the landlord is entitled to an Order of Possession.

As the evidence shows that March's rent has not been paid, I will make a monetary award in favour of the landlord in this regard. As this tenancy is ending on March 31, 2011 I will allow the landlord to retain the security deposit in partial satisfaction of this sum.

As the landlord has been successful in this claim i will allow her to recover the filing fees paid for this application.

Calculation of Monetary Award:

| | |
|----------------------|------------|
| March rental arrears | \$1,650.00 |
| Filing Fees | 50.00 |

| | |
|--------------------------------------|----------|
| Total Payable by Tenants to Landlord | \$875.00 |
|--------------------------------------|----------|

With respect to the landlord's application for "other" the evidence shows that the tenants signed a Tenancy Agreement in which they agreed to vacate the rental unit on March 31, 2012. I therefore find it troubling that they have decided to place signs in the rental unit's windows which indicate that they are being ill-treated or evicted by the landlord when, in fact, they are only being asked to do that which they agreed to do. The landlord has testified that these signs have discouraged prospective tenants. The *Residential Tenancy Act* allows claims may be brought in Tort and/or Breach of Contract. While the landlord has not yet made a claim for compensatory damages she remains at liberty to do so. In the meantime, I order the tenants to remove the signs immediately.

Conclusion

The landlord is provided with a formal copy of an Order of Possession. This is a final and binding Order as any Order of the Supreme Court of British Columbia.

The landlord is provided with a formal copy of an order for the total monetary award as set out above. This is a final and binding Order as any Order of the Provincial Court of British Columbia.

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 15, 2012.

Residential Tenancy Branch