



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 an Application for Dispute Resolution by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim.

Both parties appeared, gave testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

Preliminary issue

At a Dispute Resolution hearing on September 28, 2011, the tenant was authorized to reduce rent until the landlord made the required repairs to the rental unit, despite this the landlord issued a ten day notice to end tenancy.

On February 21, 2012, the tenant's application to set aside the ten day notice to end tenancy for unpaid rent issued on January 30, 2012, was successful, and the notice to end tenancy was set aside and the tenancy was ordered to continue.

The landlord's application scheduled for today's Dispute Resolution Hearing is requesting an order of possession for unpaid rent, which is again based on the ten day notice to end tenancy issued on January 30, 2012, which was set aside at the hearing on February 21, 2012.

The landlord was informed this matter has been heard and a decision was made by a Dispute Resolution Officer at the hearing on February 21, 2012. Therefore, the landlord's application of today is dismissed.

The landlord argued that tenant has not paid rent and wants the tenancy to end.

The landlord argued that he does not agree with the decision made on September 28, 2011, which allows the tenant to reduce rent payments.

The landlord was informed his first option was to file a review, which the landlord had done. However, that review consideration was dismissed on October 24, 2011.

The landlord was also informed that he had the option when an order is made to file a Judicial Review, in the Supreme Court of British Columbia, if he felt the Dispute Resolution Officer made an error in applying the law. The landlord was told that if he does not understand the Residential Tenancy Act, he should seek legal counsel for clarification.

The landlord was cautioned that if he fails to comply with the decisions or orders issued through the Residential Tenancy Branch's Dispute Resolution Services, he could be subject to an administrative penalty up to \$5,000.00 for each day the contravention continues.

The landlord is also cautioned that the tenant may file a claim for harassment if the landlord continues to issue invalid notices.

Conclusion

The tenant has not failed to pay rent. The tenant is allowed to reduce rent by the decision made on September 28, 2011. The rent reduction continues until the ordered repairs are made.

Therefore, the ten day notice to end tenancy is of no force or effect as found in the decision of February 21, 2012. The landlord's application here for an order of possession and a monetary order for unpaid rent is also dismissed.

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 06, 2012.

Residential Tenancy Branch