



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RR, O, FF
OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with cross application by the landlord and tenants. The application by the tenants is to reduce rent for repairs, services or facilities agreed to but not provided other and recovery of the filing fee. The application by the landlord is for an order of possession for unpaid rent, a monetary order for unpaid rent, to keep all or part of the security deposit, money owed for compensation due to damage or loss and recovery of the filing fee.

Both parties participated in the conference call hearing.

Issue(s) to be Decided

Is either party entitled to any of the above under the Act.

Background and Evidence

This tenancy began May 1, 2012 with monthly rent of \$2300.00 and the tenants paid a security deposit of \$1150.00.

On May 7, 2012 the landlord served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent; the tenants have not filed to dispute this notice.

The landlord testified that the tenants took possession for the rental unit and then in the first week of the tenancy did not have the funds available to pay the rent. The landlord stated that the tenants were then issued a 10 day notice on May 7, 2012 as the \$2300.00 May 2012 rent remained unpaid.

The tenants testified that they rented the unit with the understanding that it would be fully furnished but that when they took possession of the rental unit the items noted in the preview of the suite were no longer in the suite. The tenant stated that there were no dishes or cutlery and when they contacted the landlord regarding this matter the landlord had 2 knives, 2 forks etc. delivered to their rental unit. The tenant

acknowledged that he had signed the tenancy agreement addendum and saw the list of included items but that he did not make a note of exactly what items would be included. The tenants surmised that the list may have been altered and then submitted as evidence for this hearing. The landlord stated that everything on the list is in the rental unit.

The tenants also stated that the landlord immediately became very threatening when they advised her that the rent would be late and the landlord also repeatedly sent an agent to the tenant's door in an effort to get the rent that was due. The tenants stated that they did not file to dispute the 10 day notice as they were of the understanding that this application would also address the notice although the notice was received after this application was made.

The landlord in this application is claiming \$588.24 for damage done to the rental unit. The landlord stated that the nozzle on the tub became detached and the tenant's did not notify the landlord if the problem. The landlord stated that the broken water connection was then allowed to run unabated and the strata had to send a plumber in to complete repairs. The tenants responded by stating that yes the nozzle had come off but that it did not appear to be causing a problem at the time and they did not contact the landlord as at that point their relationship had deteriorated.

Analysis

Based on the documentary evidence and testimony of the parties I find that the tenant was properly served with a notice to end tenancy for non-payment of rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Based on the above facts I find that the landlord is entitled to an order of possession and a monetary order for unpaid rent.

In regards to the landlord's request for compensation for the repairs to the rental unit, the tenants should have immediately advised the landlord of the problem however I am not satisfied that the tenant's are responsible for the shower valve being defective as noted on the bill from the plumber. With the exception of the replaced defective valve there were no repairs required in the rental unit which the tenants may potentially have been responsible for due to the lack of reporting the problem to the landlord. Therefore the landlord's request for compensation for damages is dismissed without leave to reapply.

Accordingly I find that the landlord is entitled to a monetary order for \$2300.00.

As the landlord has been successful in their application the landlord is entitled to recovery of the \$50.00 filing fee.

In regards to the tenant's application the tenants have not provided sufficient evidence to establish what items if any, were different from when they viewed the rental unit to when they took possession of the rental unit. The tenants have also acknowledged that they signed the tenancy agreement and addendum and saw the 'furniture' list but did not note what was included. As the tenant's have not filed to dispute the 10 day notice for unpaid rent and the tenancy will be coming to an end, the tenant's application is dismissed without leave to reapply.

As the tenants have not been successful in their application the tenants are not entitled to recovery of the \$50.00 filing fee.

Conclusion

I hereby grant the landlord an **Order of Possession**, effective **2 days** after service of the Order upon the tenant(s). This Order must be served on the tenant(s) and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim for \$2300.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee. I grant the landlord a monetary order under section 67 for the amount of **\$2350.00**.

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: May 29, 2012

Residential Tenancy Branch