



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, MNDC, FF

Introduction

This was the hearing of two applications filed by the landlord. They were scheduled to be heard at the same time. The landlord requested an order for possession pursuant to a two month Notice to End Tenancy for landlord's use and a monetary order. The hearing was conducted by conference call. The named parties attended on behalf of the landlord. The tenant did not attend although he was served with both applications and Notices of Hearing. The tenant acknowledged receiving notice of the hearing in a submission to the Residential Tenancy Office

Issue(s) to be Decided

Is the landlord entitled to an order for possession?

Is the landlord entitled to a monetary order and if so, in what amount?

Background and Evidence

The rental unit is a house in Abbotsford. The tenancy began on June 15, 2011. The agreement provided for a monthly rent of \$1,000.00 for the first eight months of the tenancy and thereafter monthly rent of \$1,100.00.

On or about January 24, 2012 the landlord served the tenant with a two month Notice to End Tenancy for landlord's use. The reason for the Notice is that the landlord intends to occupy the rental unit. The notice required the tenant to move out of the rental unit on April 1, 2012. The tenant has not moved out of the rental unit. He has told the landlord that he intends to move out by May 15, 2012. The tenant did not pay rent for March and he has not paid rent for April or May. In application the landlord applied for an order for possession and in the other for a monetary order. The landlord claimed occupation rent for the period the tenant has overheld after his tenancy should have ended and the landlord claimed a further sum of \$584.00 based on the landlord's evidence that the tenant was given a \$100.00 per month rent reduction for eight months as compensation for painting of the rental unit that was only partly performed.

Analysis and Conclusion

The Notice to End Tenancy specified that the tenancy was to end on April 1, 2012. A two month notice must end the tenancy on the day of the month before the day that rent is due under the tenancy agreement; that day would have been March 31, 2012. The Notice is self correcting such that the effective date of the Notice becomes April 30, 2012. The tenant has not moved out despite the fact that he has not disputed the Notice and the effective date has passed. The tenant has said that he intends to move out by May 15th and the landlord is prepared to allow him to stay until then. I find that the landlord is entitled to an order for possession effective May 15, 2012 after service on the tenant. This order may be registered in the Supreme Court and enforced as an order of that court.

There is nothing in the tenancy agreement stating that the tenant was granted an eight month rent reduction in exchange for painting services and I dismiss the landlord's claim for payment of the sum of \$584.00 without leave to reapply. I find that the landlord is entitled to an award for occupation rent in the amount of \$1,650.00 for the month of April and for half of May. The landlord is entitled to recover one \$50.00 filing fee, but not both filing fees, because both claims before me could have been brought in one application. I grant the landlord a monetary order under section 67 in the amount of \$1,700.00. This order may be registered in the Small claims Court 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: May 09, 2012.

Residential Tenancy Branch