



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNR, MNR, MNDC, MNSD, RR, FF / OPR, MNR, MNDC, MNSD, FF

Introduction

This hearing concerns 2 applications: i) by the tenant for cancellation of a notice to end tenancy / a monetary order as compensation for the cost of emergency repairs / compensation for damage or loss under the Act, Regulation or tenancy agreement / return of the security deposit / permission to reduce rent for repairs, services or facilities agreed upon but not provided / and recovery of the filing fee; ii) by the landlord for an order of possession / a monetary order as compensation for unpaid rent / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of the security deposit / and recovery of the filing fee.

Both parties participated and / or were represented in the hearing and gave affirmed testimony.

Issue(s) to be Decided

Whether either party is entitled to any of the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement, a copy of which is not in evidence, the fixed term of tenancy is from December 16, 2011 to December 31, 2012. Monthly rent of \$1,700.00 is due and payable in advance on the first day of each month, and a security deposit of \$850.00 was collected.

Arising from rent which was not paid when due on June 1, 2012, the landlord issued a 10 day notice to end tenancy dated June 5, 2012. The notice was personally served on that same date on an adult who appeared to reside with the tenant. The tenant testified that she herself became aware of the notice the following day, June 6, 2012. Following this, the tenant made no further payment toward rent and vacated the unit on June 28, 2012. The tenant claimed that she had been in contact with the landlord and with the landlord's son in regard to yard work, and repairs required in the unit, and associated

reductions in rent, however, there is no documentary evidence before me which reflects that any related agreement was ultimately entered into by the parties.

Analysis

Based on the documentary evidence and testimony, I find that the tenant vacated the unit on June 28, 2012 following service of a 10 day notice to end tenancy for unpaid rent dated June 5, 2012. The tenant acknowledged that she has not paid any rent for June 2012. Despite the fact that the tenant has now vacated the unit, the landlord requested an order of possession, and I find that the landlord has established entitlement to same.

As for the monetary order, I find that the landlord has established entitlement to a claim of \$1,750.00, which is comprised of \$1,700.00 in unpaid rent for June 2012 and the \$50.00 filing fee. I order that the landlord retain the security deposit of \$850.00, and I grant the landlord a monetary order for the balance owed of \$900.00 (\$1,750.00 - \$850.00).

I find that the landlord's application for a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement (loss of rental income for July 2012) is premature. Accordingly, this aspect of the landlord's application is hereby dismissed with leave to reapply.

As the tenant has now vacated the unit, her application for cancellation of a notice to end tenancy is hereby dismissed. Further, in view of the tenant's having now vacated the unit, and in the absence of any documentary evidence to support her claim for compensation, aspects of the tenant's application concerning compensation are hereby dismissed. As the tenant has not succeeded with this application, her application to recover the filing fee is also hereby dismissed.

Conclusion

I hereby issue an order of possession in favour of the landlord effective not later than **two (2) days** after service on the tenant. This order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Pursuant to section 67 of the Act, I hereby issue a monetary order in favour of the landlord in the amount of \$900.00. This order may be served on the tenant, filed 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: June 29, 2012.

Residential Tenancy Branch