

DECISION

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

Introduction

There are applications filed by both parties. The Landlord has applied for an order of possession and a monetary order for unpaid rent, to retain all or part of the security deposit and recovery of the filing fee. The Tenant has applied to cancel the notice to end tenancy for unpaid rent, a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, allow the Tenant to reduce rent for repairs, services or facilities agreed upon but not provided and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended the hearing and have confirmed receipt of the notice of hearing and evidence package submitted, I am satisfied that both parties have been properly served as deemed under the Act.

At the beginning of the hearing, the Tenant stated that she withheld the June 2012 rent of \$2,500.00 to try and settle compensation issues that she had with the Landlord as stated in her details of dispute. The Landlord has confirmed this. The Tenant has confirmed that she is in the process of vacating the rental unit and is not challenging the Landlord's application. As such, I am satisfied based upon the Tenant's own documentary and oral testimony that the Landlord has established her claim for an order of possession and a monetary order for unpaid rent for June 2012 of \$2,500.00.

The Landlord is granted an order of possession and a monetary order.

The Landlord is also entitled to recovery of the \$50.00 filing fee.

As the Tenancy is at an end, the Tenant's portion of the application to be allowed to reduce rent for repairs, services or facilities agreed upon but not provided is withdrawn by the Tenant as no further action is required.

Issue(s) to be Decided

Is the Tenant entitled to a monetary order?

Background, Evidence and Analysis

The Tenant is seeking a monetary claim for the loss of use of the hot water tank and furnace for 19 days (\$1,583.27), living room fireplace (\$300.00), landscaping costs(\$884.64), venting duct above the stove (\$100.00), window washing(\$100.00), removal of a safe(\$650.00), ensuite shower leaking(\$500.00), washing machine (\$300.00) and cleaning costs (\$150.00). As well as compensation of \$5,000.00 for a health hazard and potential bodily harm due to improper venting.

Both parties have provided evidence of these series of issues. The Tenant states that she has suffered a loss of use regardless of the Landlord's responses.

Based upon the Tenant's own testimony, the Landlord responded reasonably and promptly once notified that there were issues to be dealt with. The Landlord disputes the Tenant's claims by stating that she has always responded in a timely manner to repair/deal with any issues brought up by the Tenant. The Tenant states that she notify the Landlord's Agent (previous property manager) of all of these issues when they occurred. The Landlord disputes this stating that the Agent always forwarded any issues that needed to be dealt with as it required her permission. The Landlord states that the Tenant has never brought up any of these issues dating from the beginning of the tenancy as she would have dealt with it. The Tenant states that all of her communications were made verbally with the previous property manager. I prefer the evidence of the Landlord over that of the Tenant. The Landlord has provided invoices and receipts for work done for some of the issues brought forward by the Tenant as examples.

I find that the Tenant has failed to establish her monetary claim or justify the amounts being sought. The Tenant failed to properly give notice to the Landlord to deal with the issues in a timely manner which caused a delay. However, an inconvenience did occur where the Tenant did suffer a mild inconvenience for the loss of use. I find that the Tenant is entitled to a nominal award for the loss of hot water/furnace of \$175.00, the loss of living room fireplace for \$50.00, totalling \$225.00.

The Tenant has failed to establish a claim for the loss of use of landscaping costs. The Tenant has provided no evidence of loss of use other than that this expense was incurred. Although noted, the Tenant has not provided any receipts /invoices for any

expenses. The Tenant does not have an agreement with the Landlord for this expense. This portion of the Tenant's claim is dismissed.

The Tenant's claim for \$100.00 for the kitchen venting duct has not been established. This was dealt with in a timely manner as stated in both the Tenant and the Landlord's testimony. The Tenant is unable to justify this claim amount or that this inconvenience was recurring and was not just a temporary issue. This portion of the Tenant's claim is dismissed.

The Tenant's claim for compensation of \$100.00 for window washing has not been established. The Tenant has failed to provide any justification for this claim. The Tenant failed to give notice to the Landlord to resolve this issue. This portion of the Tenant's claim is dismissed.

The Tenant's claim for the loss of use of a safe for \$650.00 has not been established. It is clear based upon both parties testimony that a safe was part of the tenancy agreement, but the Tenant's claim has not been justified because she did not incur any costs for replacement as she states that she was making use of a friends safety deposit box. This portion of the Tenant's claim is dismissed.

The Tenant's claim for \$500.00 for the loss of use of a leaking ensuite shower has not been established. The Tenant's own testimony conflicts with the documentary statement that she suffered the loss of use.

Both parties agreed that the Tenant lost the use of the washing machine in June of 2012. The Tenant has failed to establish her claim for \$300.00. Both parties agreed that the Tenant began making use of the basement washer and dryer during this period. This inconvenience to the Tenant suffered no loss/expense from this as stated in her testimony. This portion of the Tenant's claim is dismissed.

The Tenant's claim is for \$150.00 in cleaning costs, have not been justified. The Tenant has stated that this occurred during the move-in at the beginning of the tenancy. The Tenant has not been able to justify this amount of claim, however based upon the condition inspection report for the move-in. I note that a nominal award is appropriate for \$50.00 for this inconvenience.

The Tenant has established a claim for a partial recovery of the filing fee of \$25.00.

The Landlord has established a claim for an order of possession and a monetary order for unpaid rent of \$2,500.00, \$50.00 for the recovery of the filing fee. The Landlord is also entitled to retain the \$1,250.00 security deposit in partial satisfaction of the claim.

The Landlord has established a monetary claim for \$1,300.00.

The Tenant has established a monetary claim for \$250.00.

In offsetting these amounts, I find that the Landlord is granted a monetary order for \$1,050.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court

The Landlord is entitled to an order of possession. The Tenant must be served with the order of possession. 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.

Conclusion

The Landlord is granted an order of possession and a monetary order for \$1,050.00. The Landlord may retain the security deposit.

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