



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, FF

Introduction

This hearing was convened in response to cross applications.

The Landlord filed an Application for Dispute Resolution in which the Landlord has made application for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution. The Landlord's Application for Dispute Resolution has been amended to reflect the correct spelling of the female Tenant's surname, as provided at the hearing.

The Tenant filed an Application for Dispute Resolution in which the Tenant applied to set aside a Notice to End Tenancy for Unpaid Rent; to set aside a Notice to End Tenancy for Cause; for an Order requiring the Landlord to comply with the *Residential Tenancy Act (Act)* or the tenancy agreement; for an Order requiring the Landlord to make repairs; and to recover the filing fee from the Landlord for the cost of this Application for Dispute Resolution.

The Tenant was advised that the application for an Order requiring the Landlord to make repairs and for an Order requiring the Landlord to comply with the *Residential Tenancy Act (Act)* or the tenancy agreement was being refused, pursuant to section 59(5)(a) of the *Act*, because the Application for Dispute Resolution did not provide sufficient particulars of this claim, as is required by section 59(2)(b) of the *Act*. In reaching this conclusion, I was strongly influenced by the absence of any information on the Application for Dispute Resolution that outlines what repairs are required or how the Tenant wishes the Landlord to comply with the *Act* or the tenancy agreement. I find that proceeding with the Tenant's application for these matters would be prejudicial to the Landlord, as the absence of particulars makes it difficult, if not impossible, for the Landlord to adequately prepare a response to the claims. The Tenant retains the right to file another Application for Dispute Resolution in which the Tenant applies for an Order requiring the Landlord to comply with the *Act* or the tenancy agreement and/or for an Order requiring the Landlord to make repairs.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions to me.

The Landlord submitted documents to the Residential Tenancy Branch, copies of which were served to the Tenant. The Tenant acknowledged receipt of the Landlord's evidence and it was accepted as evidence for these proceedings. The Tenant submitted documents to the Residential Tenancy Branch, copies of which were not served to the Landlord. As the Tenant's evidence was not served to the Landlord, it was not accepted as evidence for these proceedings.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession; whether the Notice to End Tenancy for Unpaid Rent and/or the Notice to End tenancy for Cause should be set aside; whether the Landlord is entitled to a monetary Order for unpaid rent; and whether either party is entitled to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 46(4), 47(4), 55, 67, and 72 of the *Act*.

Background and Evidence

The Landlord and the Tenant agree that this tenancy began on January 01, 2012 and that the Tenant is required to pay monthly rent of \$1,000.00 by the first day of each month.

The Landlord and the Tenant agree that the Tenant did not pay rent when it was due on June 01, 2012 and that she has still not paid rent for June of 2012. The Tenant stated that she did not pay the rent because the Landlord told her that he intended to sell the residential property.

The Landlord and the Tenant agree that on June 04, 2012 the female Tenant was personally served with a Ten Day Notice to End Tenancy for Unpaid Rent, which had a declared effective date of June 15, 2012. The Agent for the Landlord stated that the Notice erroneously declared that the Tenant owed \$1,650.00 in rent, when she actually only owed \$1,000.00.

Analysis

On the basis of the undisputed evidence presented at the hearing, I find that the Tenant entered into a tenancy agreement with the Landlord that requires the Tenant to pay monthly rent of \$1,000.00 by the first day of each month, and that the Tenant has not yet paid the rent that was due on June 01, 2012.

As the Tenant is required to pay rent, pursuant to section 26(1) of the *Act*, when it is due, I find that the Tenant must pay \$1,000.00 in outstanding rent to the Landlord.

If rent is not paid when it is due, a tenancy may be ended pursuant to section 46 of the *Act* providing the Tenant is served with proper notice to end the tenancy. On the basis of the undisputed evidence presented at the hearing, I find that the Tenant was served

with a Notice to End Tenancy on June 04, 2012, which directed the Tenant to vacate the rental unit by June 15, 2012, pursuant to section 46 of the *Act*.

As the Landlord has grounds to end this tenancy pursuant to section 46 of the *Act* and the Tenant has been served with a Ten Day Notice to End Tenancy, I find that the Landlord is entitled to an Order of Possession and I dismiss the Tenant's application to set aside the Notice to End tenancy for Unpaid Rent.

As this tenancy is ending pursuant to section 46 of the *Act*, I find there is no need to determine whether the Landlord also has grounds to end the tenancy pursuant to section 47 of the *Act*.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

I find that the Tenant's application has been without merit and I dismiss the Tenant's application to recover the fee for filing the Tenant's Application for Dispute Resolution.

Conclusion

I grant the Landlord an Order of Possession that is effective two days after it is served upon the Tenant . This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

I find that the Landlord has established a monetary claim, in the amount of \$1,050.00, which is comprised of \$1,000.00 in unpaid rent and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. Based on these determinations I grant the Landlord a monetary Order for this amount. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia 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 25, 2012.

Residential Tenancy Branch