



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

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

Introduction

This hearing concerns two applications: i) by the tenant for cancellation of a notice to end tenancy / a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / and recovery of the filing fee; ii) by the landlord for an order of possession / and a monetary order as compensation for unpaid rent.

Both parties participated 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 tenancy began on October 15, 2009. Monthly rent is due and payable in advance on the first day of each month. While monthly rent at the outset of tenancy was \$3,100.00, after approximately one year into the tenancy the rent was reduced to \$2,900.00, which is what it presently remains. A security deposit of \$1,550.00 was collected.

The landlord issued a 10 day notice to end tenancy for unpaid rent dated June 24, 2012. The notice was served in person on the tenant on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is July 4, 2012. The amount of rent shown on the notice as overdue on June 1, 2012 is \$5,000.00. The tenant filed an application to dispute the notice on June 29, 2012, however, subsequent to service of the notice he has made no further payment toward rent and he continues to reside in the unit.

In addition to the landlord – tenant relationship, during the hearing the parties entered into some discussion about what appears to be an employer – employee relationship between them. In that regard, the tenant takes the position that certain monies are still owed to him for work which has been completed.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Based on the documentary evidence and testimony, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated June 24, 2012. While the tenant filed an application to dispute the notice, he did not pay any portion of the outstanding rent within 5 days of receiving the notice. Accordingly, I find that the landlord has established entitlement to an order of possession. During the hearing the landlord requested that, in the event the landlord's application succeeds, the order of possession be made effective not later than July 31, 2012.

As for the monetary order, I find that the landlord has established a claim of \$7,900.00, which is comprised of unpaid rent up to June 30, 2012 of \$5,000.00, plus unpaid rent for July of \$2,900.00. The landlord has not applied to recover the filing fee.

Following from the above, the tenant's application for cancellation of the notice to end tenancy is hereby dismissed.

I find that the nature of the tenant's application for compensation falls outside of the jurisdiction of the Residential Tenancy Act. Accordingly, that aspect of the application is hereby dismissed. During the hearing the parties agreed to meet in person to attempt to resolve differences between them concerning payment for work. That meeting is to occur at 1:00 p.m. on Monday, July 23, 2012 at the landlord's office.

As the tenant has not succeeded in the principal aspects of his application, his application to recover the filing fee is hereby dismissed.

As to the disposition of the security deposit at the end of tenancy, the attention of the parties is drawn to section 38 of the Act which speaks to **Return of security deposit and pet damage deposit**.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **1:00 p.m., Tuesday, July 31, 2012**. 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 **\$7,900.00**. Should it be necessary, 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: July 19, 2012.

Residential Tenancy Branch