



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPB, MND, MNSD, MNDC, FF, O

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by the landlord and the tenant.

During the hearing the parties confirmed the tenant was still in the rental unit and as such, I find that the portion of the landlord's Application to claim for damages is premature because the tenant has the opportunity to repair any damage up until the tenancy ends the tenant vacates the rental unit. I therefore dismiss this portion of the landlord's Application with leave to reapply.

The landlord also identified in the hearing that because he will apply at a later date for damage to the rental unit he will withdraw the portion of his Application to retain the security deposit at this time.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent and to a monetary order for unpaid rent and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord provided a copy of a tenancy agreement signed by the parties on December 14, 2011 for a 6 ½ month fixed term tenancy that began on December 15, 2011 and was to expire on June 30, 2012 for a monthly rent of \$900.00 due on the 1st of each month with a security deposit of \$450.00 paid.

The landlord also provided two subsequent tenancy agreements as follows:

- A memo signed by both parties on July 1, 2012 the parties agreed to extend the original tenancy agreement for the period of July 1, 2012 to July 14, 2012 with the same terms as the original agreement with the exception of rent being

changed to \$500.00 for the 2 week period and an increase in the security deposit of \$25.00; and

- A memo signed by both parties on July 6, 2012 the parties agreed to extend the original tenancy agreement for the period of July 15, 2012 to July 30, 2012 with the same terms as the original agreement with the exception of rent being changed to \$500.00 for the 2 week period and an additional increase in the security deposit of \$25.00. The agreement required the tenant to vacate the unit by 1:00 p.m. on July 30, 2012.

The tenant submits the landlord tricked her into signed these agreements by saying they were receipts and that she did not read them but simply signed them because she trusted the landlord. The documentary evidence from both parties indicates that the relationship between the parties was quite acrimonious at best, not one that appear to present an opportunity for both parties to trust each other.

The parties agreed that on the day of the hearing the tenant was still in the rental unit. The tenant testified that she had a moving truck coming at 4:00 p.m. on August 23, 2012 and that she had no objection to the landlord receiving an order of possession.

The landlord seeks lost rent for the months of August and September 2012. The landlord testified that as a result of the tenant's failure to vacate the property and because he required a police escort whenever he attended the rental unit with potential tenants, because of incidents between the two parties, he has been unable to rent the unit for September 2012.

The tenant agrees the landlord is entitled to \$500.00 for the period from August 1, 2012 to August 14, 2012 but disagrees that she should pay anything for the period from August 15, 2012 to August 30, 2012, as she states she will not be there.

Analysis

Based on the agreement of both parties I find the landlord is entitled to an order of possession.

In relation to the landlord's claim for unpaid rent for August 2012, I accept the parties agree the tenant owes the landlord for the period of August 1, 2012 to August 14, 2012. However, I disagree with the tenant's position that she is not responsible for the period of August 15, 2012 to August 30, 2012.

I find that since the tenant remained in the unit after August 14, 2012 and in fact has stayed there for more than half of the 2 week period the landlord is entitled to rent for this period.

I find the landlord's claim for lost rent for September 2012 to be premature as the landlord still has the possibility to rent the unit for all or part of the month of September

2012 and I therefore dismiss this portion of the landlord's Application with leave to reapply.

Conclusion

I find the landlord is entitled to an order of possession effective **August 24, 2012 after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$1,050.00** comprised of \$1,000.00 rent owed and the \$50.00 fee paid by the landlord for this application.

This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: August 24, 2012.

Residential Tenancy Branch