



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

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

Introduction

This hearing concerns 2 applications: i) by the landlord for an order of possession / a monetary order as compensation for unpaid rent / and recovery of the filing fee; and ii) by the tenant for cancellation of a notice to end tenancy for unpaid rent / and recovery of the filing fee. 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, the tenancy began on September 10, 2008, at which time a security deposit of \$300.00 was collected. Monthly rent and utilities combined total \$870.00, and are comprised as follows:

- \$775.00: rent
- \$60.00: utilities
- \$35.00: additional television channel

While the tenancy agreement provides that payment of the above is due on the 26th day of each month, over time the parties have established a practice pursuant to which two separate installment payments are made during any given month. In general, the installment payments have been made on every second Friday, the first in the amount \$335.00 and the second in the amount of \$535.00. However, there were occasions when the tenant requested that the landlord delay cashing certain cheques until such time as sufficient funds were available in his account. The landlord takes the position that rent remains overdue in the amount of \$535.00 for August, whereas the tenant argues that rent for August has been paid in full. Ultimately the landlord issued 2 separate 10 day notices to end tenancy for unpaid rent. The various documentary evidence submitted by the parties is confusing and contradictory.

During the hearing the parties undertook to find a practical solution to their dispute.

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

Section 63 of the Act speaks to the **Opportunity to settle dispute**. Pursuant to this provision, during the hearing the parties achieved a resolution. Specifically, it was agreed as follows:

RECORD OF SETTLEMENT

- that the tenant will vacate the unit by not later than Friday, October 12, 2012, and that an order of possession will be issued in favour of the landlord to that effect;
- that the tenant will pay the landlord \$536.72 by not later than Noon, Thursday, October 4, 2012, and that a monetary order will be issued in favour of the landlord to that effect;
- that the above payment is comprised of \$200.00 in unpaid rent for September and \$336.72 in rent for the period from October 1 to 12, 2012;
- that the above particulars bring full and final settlement to the dispute around unpaid rent / utilities for the period from September 10, 2008 up to and including Friday, October 12, 2012.

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**.

The respective applications to recover the filing fee are hereby dismissed.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **1:00 p.m., Friday, October 12, 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 **\$536.72**. 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: October 04, 2012.

Residential Tenancy Branch