



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OPR, OPC, MND, MNR, MNDC, FF

Introduction

This was a hearing with respect to applications by the landlord and by the tenant. The tenant applied to cancel a 10 day Notice to End Tenancy for unpaid rent. The landlord applied for an order for possession and a monetary order. The hearing was conducted by conference call. The named landlord, her relative who acted as an interpreter and the landlord's lawyer attend the hearing. The tenant called in and participated in the hearing. Several witnesses were called by the landlord and were present when the hearing commenced, but it was not necessary to hear from them.

Issue(s) to be Decided

Should the Notice to End Tenancy be cancelled, or is the landlord entitled to an order for possession?

Is the landlord entitled to a monetary award and if so, in what amount?

Background and Evidence

The rental unit is a house in Vancouver. The tenancy began September 1, 2012 for a one year fixed term with monthly rent of \$2,800.00 payable on the first of each month. The tenant paid a security deposit of \$1,400.00. The tenancy agreement provided that six persons would occupy the rental unit and no other person would occupy the rental unit without the consent of the landlord. The agreement referred also to two children, but it did not specify whether they were or were not among the six persons who were to occupy the unit. The tenant is responsible for paying the utilities, including cable, phone and internet.

In October, 2012 the tenant was late paying rent. He paid only \$1,400.00 because he said the refrigerator was broken. The landlord replaced the refrigerator and allowed the

tenant to apply the security deposit to the rent due for October. In November the tenant repaid only a portion of the security deposit in the amount of \$800.00.

The landlord testified that the tenant has been late paying rent in November, December and January. The tenant did not pay the full rent for January; he paid only \$2,600.00.

The landlord testified that the tenant has sublet the rental unit to individuals who were not intended to be occupants under the tenancy agreement. She testified that the tenant was renting to students and was collecting rent from them. She also testified that the tenant had altered the rental property by building additional rooms inside the existing rooms and renting them out to additional occupants of the rental property. The tenant did not pay rent for February and on February 3, 2013 the landlord served the tenant with a 10 day Notice to End Tenancy for unpaid rent by posting it to the door of the rental unit. The tenant applied to cancel this Notice. He blamed his failure to pay rent on the landlord's interference with "his tenants" that caused them to not pay rent to him, thereby preventing him from paying rent to the landlord and he suggested that the landlord was collecting rent directly from his tenants. He said at the hearing that he has moved out of the rental unit and is no longer living there.

In addition to an order for possession the landlord claimed a monetary order for unpaid rent and amounts that she said the tenant owed for utilities. The landlord claimed unpaid rent of \$200.00 for January, rent in the amount of \$2,800.00 for February. \$1,133.41 for utilities and an estimated amount of \$3,500.00 to repair damage, fix a door that was broken when the police attended and costs to tear down rooms created by the tenant.

Analysis and conclusion

The tenant has moved out and I find that he had no valid ground to dispute the Notice to End Tenancy for unpaid rent. I therefore dismiss his application to cancel the Notice to End Tenancy and I grant the landlord an order for possession effective two days after service. This order may be registered in the Supreme Court and enforced as an order of that court.

With respect to the landlord's claim for a monetary order I accept the landlord's evidence and find that the landlord is entitled to a monetary award for unpaid rent for January of \$200.00 and \$2,800.00 for February. The landlord's claim for the cost to repair damage is premature; the work has not been performed and the extent of the claim has not been established. The landlord's claim for the cost of repairs and cleanup is dismissed with leave to reapply. With respect to the claim for unpaid utilities, the

landlord has not established that she provided the tenant with copies of the utility accounts and a written request for payment. The claim for unpaid utilities is also dismissed with leave to reapply. I award the landlord the sum of \$3,000.00 for unpaid rent for January and February. The landlord is entitled to recover \$50.00 of the \$100.00 filing fee paid for this application for a total of \$3,050.00. I order that the landlord retain the \$800.00 security deposit that she holds in partial satisfaction of this award and I grant the landlord an order under section 67 in the amount of \$2,250.00. This order may be registered 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: March 07, 2013

Residential Tenancy Branch

