



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPB, MND, FF

Introduction

This hearing was scheduled in response to the landlord's application for an order of possession / a monetary order as compensation for unpaid rent or utilities / and recovery of the filing fee. Both parties attended and gave affirmed testimony.

Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

While there is no written tenancy agreement in evidence, there is a "rental application" on which some of the particulars concerning tenancy are set out. The tenancy began on February 1, 2013. Monthly rent of \$840.00 is due and payable in advance on the first day of each month. Rent does not include utilities. Despite the landlord's repeated requests, no security deposit has been paid by the tenants.

By way of a 10 day notice to end tenancy for unpaid rent or utilities dated March 3, 2013, the landlord sought to end tenancy as a result of tenants' failure to pay a security deposit. In his application the landlord also claims that hydro is outstanding in the amount of \$130.00. Further, the landlord claims that the tenants have created serious disturbances and have damaged the unit. In short, the landlord seeks to end tenancy and to obtain a monetary order which would serve to compensate him for the security deposit (\$420.00), the unpaid hydro (\$130.00) and the filing fee (\$50.00).

During the hearing the parties undertook to achieve a partial resolution of the 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 47 of the Act addresses **Landlord's notice: cause**. To obtain an order of possession on the basis of a claim that the security deposit has not been paid within 30 days of the date it is required to be paid, or on the basis that tenants have unreasonably disturbed the landlord, or on the basis that tenants have caused damage to the landlord's property, a landlord must complete and properly serve a 1 month notice to end tenancy for cause. In the circumstances of this dispute, there is no evidence that a 1 month notice to end tenancy for cause has been issued.

As to the landlord's application for a monetary order reflecting compensation for unpaid utilities, there is no documentary evidence before me to support this claim. For the information of the parties, section 46 of the Act speaks to **Landlord's notice: non-payment of rent**. Specifically in regard to unpaid utilities, section 46(6) of the Act provides as follows:

46(6) If

- (a) a tenancy agreement requires the tenant to pay utility charges to the landlord, and
- (b) the utility charges are unpaid more than 30 days after the tenant is given a written demand for payment of them,

the landlord may treat the unpaid utility charges as unpaid rent and may give notice under this section.

Section 63 of the Act speaks to the **Opportunity to settle dispute**, and provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion led to a partial resolution. Specifically, it was agreed as follows:

RECORD OF SETTLEMENT

- that the tenants will vacate the unit by not later than **1:00 p.m., Tuesday, April 30, 2013**, and that an **order of possession** will be issued in favour of the landlord to that effect;
- that as the tenants acknowledge that no rent has been paid for April, a **monetary order** will be issued in favour of the landlord to that effect in the full amount of **\$840.00**;
- that the landlord **withdraws** the application to recover the \$50.00 filing fee.

Should the parties be unable to resolve concerns related to unpaid utilities or costs arising from cleaning and repairs that may be required in the unit when tenancy ends, they have the option of filing applications for dispute resolution.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **1:00 p.m., Tuesday, April 30, 2013**. This order must be served on the tenants. Should the tenants 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 **\$840.00**. Should it be necessary, this order may be served on the tenants, 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: April 10, 2013

Residential Tenancy Branch

