



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding New Chelsea Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OP, MNR, MNSD, FF

Introduction

This hearing concerns the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / retention of the security deposit / and recovery of the filing fee. Both parties attended and gave affirmed testimony.

Issue(s) to be Decided

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

Background and Evidence

Pursuant to a written tenancy agreement, the fixed term of tenancy is from September 1, 2012 to March 31, 2013. Monthly rent is due and payable in advance on the first day of each month. The tenancy agreement provides that while the economic rent is \$891.00, the tenant's portion of this amount is \$399.00. A security deposit of \$445.00 was collected.

As to the end of tenancy, the tenancy agreement provides in part as follows:

At the end of this fixed length of time the tenancy may continue on a month-to-month basis, or another fixed length of time, or the tenant must move out of the residential unit, based solely on the landlord's discretion. If the tenant breaks the lease before it has ended the tenant may be held responsible for paying the balance of the rent owing until the end of the lease.

Elsewhere in the tenancy agreement, in clause # 15 under the heading "Ending the Tenancy," the agreement provides in part:

(e) If this is a fixed term tenancy and the agreement does not require the tenant to vacate at the end of the tenancy, the agreement is renewed as a monthly

tenancy on the same terms until the tenant gives notice to end a tenancy as required under the RTA.

By letter dated January 7, 2013, the landlord informed the tenant that the tenancy agreement would not be renewed, and that she would be required to vacate the unit effective March 31, 2013. However, the tenant still currently resides in the unit and she testified that she intends to vacate the unit tomorrow, April 30, 2013. In this regard, the landlord requests an order of possession which the tenant does not dispute.

The landlord's agents testified that the tenant's portion of rent defined in the tenancy agreement (\$399.00) ended on January 31, 2013, and that effective February 1, 2013 the tenant's portion of rent became \$866.00. However, the tenant continued to pay only \$399.00 for each of February and March, and she has paid no rent whatsoever for April.

During the hearing the parties undertook to resolve 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 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 the parties achieved a resolution, and it was specifically agreed as follows:

RECORD OF SETTLEMENT

- that the tenant will vacate the unit by not later than **Tuesday, April 30, 2013**, and that an **order of possession** will be issued in favour of the landlord to that effect;
- that the landlord acknowledges payment of **\$399.00** by the tenant for each of **February and March**, as **full payment of rent** due for each of those months;
- that the landlord will recover the full rent due and payable for April in the amount of \$399.00, as well as the \$50.00 filing fee [total: **\$449.00**] by way of withholding the tenant's full security deposit of **\$445.00**, in addition to **\$4.00** from the **\$50.00** key / fob deposit paid by the tenant near the start of tenancy;
- that the landlord will repay the balance of the key / fob deposit to the tenant in the amount of **\$46.00** (\$50.00 - \$4.00);

- that the parties will consider the importance of undertaking to complete a move-out condition inspection and report together at the end of tenancy.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **Tuesday, April 30, 2013**. 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.

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 29, 2013

Residential Tenancy Branch

