



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MND, FF, CNR, ERP, MNDC, OLC, LRE

Introduction

There are applications filed by both parties. The Landlord has made an application for an order of possession and a monetary order for unpaid rent, for damage to the unit, site or property and recovery of the filing fee. The Tenant has made an application to cancel the notice to end tenancy issued for unpaid rent, an order for the Landlord to make emergency repairs, a monetary order request for money owed or compensation for damage or loss, for an order for the Landlord to comply with the Act, regulation of tenancy agreement and an order restricting the Landlord's right to enter.

Both parties have attended the hearing by conference call and gave testimony. As both parties have attended and have confirmed receipt of the notice of hearing packages and submitted documentary evidence of the other party, I am satisfied that both parties have been properly served.

During the hearing the Tenant withdrew his monetary claim and stated that it was only applied for because he was afraid the Landlord might dispose of his personal property.

During the hearing both parties indicated that they wished to pick up their copies of the decision and any subsequent orders at the Burnaby Residential Tenancy Branch Office. Both parties were instructed to attend no earlier than Monday, June 3, 2013 at 12 noon.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to a monetary order?

Is the Tenant entitled to an order cancelling the notice to end tenancy?

Is the Tenant entitled to an order for emergency repairs?

Is the Tenant entitled to an order to control the Landlord's right to enter?

Is the Tenant entitled to an order for the Landlord to comply with the Act, regulation or tenancy agreement?

Background and Evidence

Both parties confirmed that the monthly rent was \$575.00. The Landlord states that an additional \$75.00 would be charged for utilities and the Tenant disputed this stating that it was included with the rent. Both parties confirmed that there was a signed tenancy agreement, but neither party has submitted a copy.

The Landlord states that the Tenant was personally served with a 10 day notice to end tenancy issued for unpaid rent and utilities dated May 4, 2013. The Landlord has provided a copy of a proof of service document which indicates that the Tenant was personally served on May 4, 2013 with a witness. The notice states that \$2,725.00 (balance outstanding) of unpaid rent was due on May 1, 2013 and remains unpaid. The notice displays an effective date of May 14, 2013.

The Landlord has clarified that the \$3,375.00 claim is for \$2,600.00 in unpaid rent and utilities (\$575.00 rent and \$75.00 utilities = \$650.00 X 4 months (March, April, May and June) = \$2,600.00). The Landlord also states that prior to the last 4 months being unpaid, the Tenant was already in arrears for \$775.00. The Tenant disputes this and states that his monthly rents were paid. The Landlord has provided a detailed written "statement of payments" from the Tenants which outline the arrears.

The Tenant states that the Landlord turned off the electricity and the water on April 13, 2013. The Landlord has confirmed this stating that it was turned off because the Tenant was not paying any rent or utilities. The Tenant seeks an order for emergency repairs for the Landlord to turn on the utilities as they were included in the tenancy.

The Tenant failed to provide any details for his request for an order for the Landlord to comply with the Act, regulation or tenancy agreement and the request to suspend of set conditions on the Landlord's right to enter the rental unit even after being requested to do so during the hearing. The Tenant stated that he had no comment on these issues.

Analysis

I am satisfied based upon the Landlord's undisputed testimony that the Tenant was personally served with the 10 day notice to end tenancy issued for unpaid rent. Although the Tenant has disputed the notice, the Tenant has failed to provide any relevant evidence that rent or utilities were paid. On a balance of probabilities I prefer the evidence of the Landlord over that of the Tenant. The Landlord has provided a detailed listing of the unpaid rent and utilities. The Landlord is entitled to an order of possession. The order must be served upon 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.

I find on a balance of probabilities that the Tenant has failed to provide sufficient evidence to satisfy me that utilities were included in the rental. As the Tenancy is at an end and the Tenant has failed to provide sufficient evidence to satisfy me of this claim the Tenant's request for emergency repairs is dismissed.

As for the monetary claim, I find that the Landlord has established a monetary claim, but not for the amount sought. I find that the Landlord has established a monetary claim for unpaid rent and utilities for March 2013 of \$650.00 (\$575.00 unpaid rent and \$75.00 for utilities), April 2013 of \$612.50 (\$575.00 in unpaid rent and \$37.50 for utilities (utilities turned off by Landlord on April 13, 2013)), May 2013 of \$575.00 for unpaid rent. The Landlord has also established a claim for past arrears of \$775.00. The Landlord's total monetary claim granted is \$2,612.50 for unpaid rent and utilities. The claim made by the Landlord for unpaid rent and utilities for June 2013 is premature as of the date of this hearing and is dismissed with leave to reapply. The Landlord is also entitled to recovery of the \$50.00 filing fee. The Landlord is granted a monetary order for \$2,662.50. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

The remaining portions of the Tenant's claims are dismissed as the Tenant has failed to provide any details or comment on the request for an order to comply and to suspend or set conditions on the Landlord's right to enter.

Conclusion

The Tenant's Application is dismissed.

The Landlord is granted an order of possession and a monetary order for \$2,662.50.

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: May 31, 2013

Residential Tenancy Branch

