



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OLC, MNR, OPR, FF, MNSD

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The tenant also filed an application seeking an order to have the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities set aside and an order to have the landlord comply with the Act. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

Issues to be Decided

Is either party entitled to any of the above under the Act, the regulations or the tenancy agreement?

Background and Evidence

The landlord gave the following testimony:

The tenancy began on or about April 23, 2009. Rent in the amount of \$850.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$425.00. The tenant failed to pay rent in the month(s) of April and on April 22, 2013 the landlord served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month(s) of May.

The tenant gave the following testimony:

The tenant stated that she had to resort to going on “assistance” due to some personal matters but has always paid her rent. The tenant stated that the government would not be able to assist in the outstanding amount of rent due. The tenant stated that the landlord has not fixed the dishwasher for over a year and that she should not have to pay for rent until it has been repaired or replaced. The tenant acknowledges that amount of unpaid rent.

Analysis

I accept the landlord’s testimony and I find that the tenant was served with a notice to end tenancy for non-payment of rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice. The tenant was of the belief that she was justified in withholding rent based on a non working dishwasher. I do not find the testimony and insufficient evidence of the tenant before me to be compelling nor reliable. In the tenants own sworn testimony she acknowledged and agreed to the debt of \$1700.00 owed to the landlord. Based on the above facts I find that the landlord is entitled to an order of possession. The tenant must be served with the order of possession. 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.

As for the monetary order, I find that the landlord has established a claim for \$1700.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee. I order that the landlord retain the \$425.00 deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1325.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

As for the tenant’s application; as stated above I do not find the evidence submitted by the tenant to be sufficient and therefore dismiss her application in its entirety without leave to reapply.

Conclusion

The landlord is granted an order of possession and a monetary order for \$1325.00. The landlord may retain the security deposit.

The tenant's application is dismissed in its entirety without leave to reapply.

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 22, 2013

Residential Tenancy Branch

