



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

CNR, OPR, MNR, MNSD, ERP, RP, MNDC, FF

Introduction

This hearing was convened in response to an application by the landlord **and** an application by the tenant.

The tenant sought to cancel a 10 Day Notice for Unpaid Rent (Notice to End) and a monetary order for loss of utilities, and to make repairs to the unit, and recover the filing fee.

The landlord sought an Order of Possession due to unpaid rent, a Monetary Order to recover rental arrears and inclusive of recovery of the filing fee associated with this application, and an order to retain the security deposit in partial satisfaction of the monetary claim.

Both parties appeared in the conference call hearing and participated with their submissions and testimony. The tenant did not provide any document evidence. The landlord provided the Notice to End and a copy of the tenancy agreement. The tenant advised they are still residing in the rental unit.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Should the Notice to End be cancelled?

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to the monetary amounts claimed?

Background and Evidence

The testimony of the landlord and the tenant is that the tenancy began October 01,

2012, Rent in the amount of \$1400 is payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$700.00 which they retain in trust. The landlord claims the tenant failed to pay rent in the month of May 2013 and the landlord served the tenant with a notice to end tenancy for non-payment of rent. The landlord also claims the tenant further failed to pay rent in the month of June 2013.

The tenant agrees they did not pay rent for May 2013, but the attending tenant testified that her spouse told them they indeed paid the rent for June 2013. The tenant did not provide other evidence in respect to payments of rent and in part of their testimony they questioned the accuracy of their spouse's assertion the rent for June was paid. The tenant also claims the landlord turned off their utilities for 2 weeks in the month of May 2013 – which the landlord denied doing. The tenant seeks \$200.00 in compensation for this purported breach.

The landlord's monetary claim is for the rent arrears for the aforementioned 2 months in the amount of \$2800.00. The landlord further seeks an immediate **Order of Possession**.

Analysis

Based on the testimony of the landlord and the tenant I find that the tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The tenant does not dispute the rent was not been paid in May 2013 and does not possess any proof they paid rent in June 2013, or proof of a valid / legal reason for withholding rent. Despite having applied for dispute resolution to dispute the notice to end I find, on balance of probabilities, I find the tenant has not paid the outstanding rent and does not have evidence upon which to dispute the landlord's claims. Based on the above facts I find that the landlord is entitled to an **Order of Possession**.

I further find the tenant has not sufficiently supported their claim they suffered a loss of utilities and **I dismiss** this portion of the tenant's claim. In addition, as I have determined the tenancy is coming at an end, **I dismiss** the balance of the tenant's application, **without leave to reapply**.

As for the monetary order, I find that the landlord has established a claim for **\$2800.00** in unpaid rent. The landlord is also entitled to recovery of the \$50 filing fee, for a total entitlement of **\$2850**. The security deposit will be offset from the landlord's claim.

Conclusion

The tenant's application is **dismissed, without leave to reapply.**

I grant an Order of Possession to the landlord **effective 2 days** from the day it is served upon the tenant. The tenant must be served with this 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.

I order that the landlord retain the deposit and interest of \$700.00 in partial satisfaction of the claim and I grant the landlord an order under Section 67 of the Act for the balance due of **\$2150.00**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

This Decision is final and binding upon both parties.

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: June 13, 2013