



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MNDC, OPR, MNR

Introduction

This hearing dealt with applications from both the landlord and the tenants under the *Residential Tenancy Act* (the *Act*). The landlord applied for:

- an Order of Possession for unpaid rent pursuant to section 55; and
- a monetary order for unpaid rent pursuant to section 67.

The tenant applied for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46; and
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to discuss their applications with one another. The tenant confirmed that the landlord handed him the 10 Day Notice on May 17, 2013. The landlord testified that she received a copy of the tenant's dispute resolution hearing package sent to her by registered mail on May 22, 2013. I am satisfied that these documents were served to one another in accordance with the *Act*.

The landlord testified that she sent the tenant a copy of her dispute resolution hearing package by registered mail on May 27, 2013. She provided a copy of the Canada Post Tracking Number and Customer Receipt to confirm this registered mailing. The tenant said that he was unaware of the landlord's application for dispute resolution and has not received any copy of a notice from Canada Post advising him that a notice is waiting for him at the Post Office. In accordance with sections 89 and 90 of the *Act*, I advised the parties of my finding that the tenant was deemed to have been served with the landlord's dispute resolution hearing package on the fifth day after its mailing.

As the parties agreed that the tenant has not paid his rent for June 2013, after the landlord's application for dispute resolution was submitted, I allowed the landlord to increase the amount of her requested monetary award from \$1,010.00 to \$2,020.00.

Issues(s) to be Decided

Should the landlord's 10 Day Notice be cancelled? If not, is the landlord entitled to an Order of Possession? Is the landlord entitled to a monetary award for unpaid rent? Is the tenant entitled to a monetary award for losses in the value of his tenancy resulting from the landlord's withdrawal of services and facilities committed to but not provided during his tenancy.

Background and Evidence

This periodic tenancy began on December 1, 2011, by way of an oral agreement. Monthly rent is set at \$1,010.00, payable in advance on the first of each month. There is no security deposit for this tenancy.

The tenant's application for a monetary award of \$3,030.00 was for three month's loss in the value of his tenancy. He maintained that he was entitled to this rent reduction as a result of the landlord's arbitrary withdrawal of services since April 2013, including the telephone, the washer and dryer, storage, cable television and garbage pickup.

The landlord's amended application for a monetary award of \$2,020.00 was for unpaid rent for May and June 2013.

Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing, the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to a final and binding resolution of all issues in dispute arising out of this tenancy under the following terms:

1. Both parties agreed that this tenancy will end by 1:00 p.m. on June 30, 2013, by which time the tenant will have vacated the rental unit.
2. The tenant agreed to send the landlord a negotiable cheque in the amount of \$505.00 by June 29, 2013, and a further negotiable cheque of \$505.00 by July 29, 2013.
3. The landlord agreed that the tenant's payment of a total of \$1,010.00 as set out above constituted a final resolution of all monetary issues for non-payment of rent arising out of this tenancy.
4. The tenant agreed to withdraw his application for dispute resolution.
5. Both parties agreed that this settlement agreement constituted a final and binding resolution of all issues in dispute arising out of this tenancy.

Conclusion

To give effect to the settlement reached between the parties and as discussed at the hearing, I issue the attached Order of Possession to be used by the landlord if the tenant does not vacate the rental premises by 1:00 p.m. on June 30, 2013, in accordance with their agreement. The landlord is provided with these Orders in the above terms and the tenant must be served with this Order in the event that the tenant does not vacate the premises by the time and date set out in their agreement. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

In order to implement the above settlement reached between the parties, I issue a monetary Order in the landlord's favour in the amount of \$1,010.00. I deliver this Order to the landlord in support of the above agreement for use **only** in the event that the tenant does not abide by the terms of the above settlement. The landlord is provided with these Orders in the above terms and the tenant must be served with a copy of these Orders as soon as possible after a failure to comply with the terms of the above settlement agreement. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: June 18, 2013

Residential Tenancy Branch

