



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

Landlord: OPR, MNR and FF
Tenants: CNR, CNC, OLC, LRE and FF

Introduction

This hearing was convened on applications by both the landlord and the tenants.

By application of June 14, 2013, the landlord sought an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent served in person on June 6, 2013. The landlord also sought a monetary award for the unpaid rent and recovery of the filing fee for this proceeding.

By application of June 3, 2013, the tenant made application to contest an earlier one-month Notice to End Tenancy for cause and later amended the application to contest the Notice to End Tenancy for unpaid rent. The tenant also sought an order that the landlord comply with the legislation and rental agreement and an order restricting landlord access to the rental unit.

The parties were advised that, if the tenancy were to end under the Notice to End Tenancy for unpaid rent, I would not need to consider the Notice for cause, and that other claims by the tenant may be dismissed as unrelated under section 2.3 of the Rules of Procedure.

Issue(s) to be Decided

These applications require a decision on whether the landlord is entitled to an Order of Possession and a Monetary Order as requested or whether the notice to end tenancy should be set aside. They may also require a decision on whether orders requested by the tenant remain pertinent.

Background and Evidence

This tenancy began on April 1, 2004. Rent is \$700 per month and the landlord holds a security deposit of \$350 paid on February 28, 2004.

During the hearing, the landlord gave evidence that the 10-day Notice to End Tenancy for unpaid rent had been served on June 6, 2013 when the tenant had failed to pay the full rent for May and June of 2013. The tenant contested the method of service, but as she amended her application to contest it, I find that she has been duly served.

The tenant further challenged the \$1,400 amount of rent claimed on the notice. The landlord concurred, that the tenant had paid \$360 of the rent for May on May 31, 2013. The landlord stated that she had included an amount of unpaid rent from a previous year, but for want of evidence, I have struck that part of the claim.

The tenant further concurs that she has paid none of \$700 rent that was due on June 1, 2013.

Analysis

Section 26 of the *Act* provides that tenants must pay rent when it is due.

Section 46 of the *Act* provides that a landlord may issue a Notice to End Tenancy for unpaid rent on a day after the rent is due. The tenant may cancel the notice by paying the overdue rent or make application to dispute the notice within five days of receiving it.

In this instance, while the tenant has made application to contest the Notice to End Tenancy, by her own accounting, she did not pay the rent within five days of receiving the notice.

Accordingly, I find that the landlord is entitled to an Order of Possession to take effect two days from service of it on the tenants.

I further find that the landlord is entitled to a monetary award for all of the unpaid rent.

As the application has succeeded on its merits, I find that the landlord is entitled to recover the filing fee for this proceeding from the tenants.

Thus, I find that the landlord is entitled to a monetary award calculated as follows:

Rent shortfall from May 2013	\$ 340.00
Rent for June 2013	700.00
Filing fee	50.00
TOTAL	\$1,090.00

The security deposit remains to be addressed in compliance with section 38 of the Act.

The tenant also expressed concern that the landlord has changed the lock on the mail box and has not provided her with a key. The landlord stated she would be getting keys on the day of the hearing, but hesitated to provide the tenant's with a copy as the tenancy is ending. The landlord is cautioned that that she must provide the tenant with her mail expeditiously and that failure to do might give rise to further claim against her.

The tenant also expressed concern that in order to move her larger items out of the rental unit, she needs access through the front door usually used exclusively by the landlord. Again, I remind the landlord of her duty to make reasonable accommodation to assist the tenant's compliance with the Order of Possession.

Conclusion

The tenants' application is dismissed without leave to reapply.

The landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, to take effect two days from service of it on the tenants.

The landlord's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia for **\$1,090.00** for service on the tenant.

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 25, 2013

Residential Tenancy Branch

