



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

Landlord: OPR, OPC, MNR, MNSD, MNDC, FF

Tenant: MT, CNC, CNR, PSF, RPP, LRE, AAT, LAT, O

Introduction

This hearing dealt with the cross Applications for Dispute Resolution. The landlord sought an order of possession and a monetary order. The tenant sought more time to apply to cancel a notice to end tenancy; to cancel a notice to end tenancy; and for several orders against the landlord for actions.

The hearing was conducted via teleconference and was attended by the landlord and the tenant. At the outset of the hearing both parties identified that they had witnesses available, and despite being offered to have their witnesses provide testimony neither party called any of their witnesses.

At the outset of the hearing the tenant submitted that she wanted to end the tenancy as well and by the end of the hearing the parties agreed the tenancy would end on July 21, 2013. As such, I find no need to adjudicate the portion of the landlord's Application regarding possession or the portion of the tenant's Application seeking to cancel the notices or for more time to submit an Application to cancel the notices. As the tenancy will end I also find there is no need to adjudicate the portion of the tenant's Application seeking to have the landlord provide services or facilities required by law; suspend or set conditions on the landlord's right to enter the rental unit; allow access to or from the unit for the tenant or the tenant's guest; or authorize the tenant to change the locks to the rental unit.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid rent; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

It must also be decided if the tenant is entitled to a monetary order for compensation for personal property and for the costs of moving and for an order have the landlord return the tenant's personal property, pursuant to Sections 67, and 72 of the *Act*.

Background and Evidence

The landlord provided a copy of a tenancy agreement signed by the parties on August 26, 2010 for a month to month tenancy beginning on September 1, 2010 for a rent of \$710.00 due each month with a security deposit of \$355.00 paid.

The landlord testified the tenant has not paid rent for the months of June and July 2013. The tenant testified that she paid rent for the month of June but has not paid rent for the month of July 2013.

The tenant testified the landlord never provides receipts for rent when she pays it. The landlord testified that he always provides rent receipts. The landlord did not provide copies of any rent receipts or ledgers indicating late receipt or non-payment of rent.

The tenant submits that the landlord has entered the rental unit without notice and removed from the unit a number of personal items including: her and her son's passports and birth certificates; her expensive jewellery; an X-Box; a PlayStation 3; a television; and laptop. The tenant seeks to have these returned and/or compensation in the amount of \$5,220.00. The tenant has provided no receipts or any documentation regarding the value of these items.

The tenant submits that while she has discussed this matter with the police they have advised her that it is a Residential Tenancy Branch matter and no charges have been made against the landlord for theft or possession of stolen property.

The tenant also seeks compensation in the amount of \$2,000.00 for moving costs because she does not feel safe in the rental unit with the landlord entering without notice. She testified that she had been recently staying at different location for these reasons. The tenant also submits the landlord has threatened her son but that no charges have been made against the landlord in regards to threats.

The landlord asserts the tenant has had several people coming and going from her rental unit and it could have been any number of people who had taken her possessions. The landlord asserts that the tenant has dealing drugs out of the rental unit. The landlord has provided no evidence to support these statements.

Analysis

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

In regard to the landlord's claim the burden is on the landlord to provide sufficient evidence to establish the tenant has failed to pay rent for both months claimed. As the tenant disputes the landlord's claim that she failed to pay rent in June 2013 and the landlord has provided no other evidence to corroborate his position such as a tenant ledger or evidence that he always provides receipts, I find that landlord has failed to establish the tenant failed to pay rent in June 2013.

However, I accept that the tenant agrees that she has not paid rent for July 2013. As such, I find the landlord is entitled to rent in the amount of \$710.00.

As to the tenant's claim the burden was on the tenant to provide sufficient evidence to establish that the landlord has taken her possessions and that he should be order to return them or compensate her for them. However, I find the tenant has provided no conclusive evidence that the landlord has taken any of the tenant's possession.

Even if I were to find that the tenant had established that the landlord had taken these items, she has provided no evidence to establish the value of any of the items or confirmation that she had them to begin with. For these reasons, I dismiss this portion of the tenant's claim, including her request to have her personal property returned.

Further, in order to establish the tenant might be entitled to compensation for moving costs from the landlord the tenant must provide sufficient evidence to establish the landlord has breached the *Act*, regulation or tenancy agreement and as such directly caused the tenant to need to vacate the property.

As the landlord has provided testimony disputing all of the tenant's allegations regarding his behaviour it is incumbent upon the tenant to provide additional evidence to corroborate her allegations. As the tenant has provided no additional evidence I find she has failed to establish any violation of the *Act*, regulation or tenancy agreement.

Again, even if I were to find the tenant had established that she was entitled to compensation for moving she has failed to provide any evidence to establish the value of the costs associated with moving. For these reasons, I dismiss this portion of the tenant's claim.

Conclusion

In support of the party's agreement to end the tenancy I find the landlord is entitled to an order of possession effective **July 21, 2013 after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$760.00** comprised of \$710.00 rent owed and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$355.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$405.00**.

This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be enforced as an order 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: July 17, 2013

Residential Tenancy Branch