



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Keystone Property Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, OPC, MNR, MNSD, CNR, ERP, RP, RR, FF

Introduction

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

The Tenant applied on June 24, 2013 for:

1. An Order cancelling a Notice to End Tenancy – Section 46;
2. An Order for the Landlord to make emergency and other repairs – Section 32;
3. An Order for a reduction in rent – Section 65; and
4. An Order to recover the filing fee for this application - Section 72.

The Landlord applied on June 25, 2013 for:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent or utilities - Section 67; and
3. An Order to retain all or part of the security deposit – Section 38.

The Tenants and Landlords were each given full opportunity to be heard, to present evidence and to make submissions under oath.

Preliminary Note

This hearing was originally scheduled for July 23, 2013. At the onset of the hearing, it was noted that no evidence package had been provided to the Residential Tenancy Branch from the Landlord. The Tenant confirmed that a copy of a package was received by the Tenant prior to the hearing and indicated a dispute in relation to the written tenancy agreement and the provision of heat to the unit. The hearing was

adjourned to today's date for the Landlord to submit the evidence package to the Residential Tenancy Branch.

Issue(s) to be Decided

Is the Notice to end tenancy valid?

Is the Landlord entitled to an order of possession?

Are the Tenants entitled to the orders they seek?

Background and Evidence

The following are agreed facts: The tenancy started on a August 1, 2012 for a fixed term ending July 31, 2012. Rent of \$1,000.00 is payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected \$500.00 as a security deposit from the Tenant. The Tenant owed arrears of \$2,500.00 and failed to pay rent for June 2013 and on June 18, 2013 the Landlord served the Tenants personally with a 10 notice to end tenancy for unpaid rent (the "Notice"). The effective date of the Notice is June 30, 2013. The Tenant also failed to pay rent for June, July, August and September 2013.

The Tenant states that they attempted to pay an amount of rent on August 18, 2013 but that the Landlord refused to accept it. The Landlord states that on this date the Tenants did ask to stay in the unit but no amount of money was offered to pay the rent.

Analysis

Section 46 of the Act requires that upon receipt of a 10 notice to end tenancy for unpaid rent (the "Notice") the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. Based on the undisputed evidence I find that the Tenant was served with a valid Notice. The Tenant did not pay the rent owed and although the Tenant states that rent was offered to the Landlord in August 2013, given the Landlord's more convincing evidence that no such offer was made, I find on a balance of probabilities that the rent was not offered. I find that the Landlord is

entitled to an **Order of Possession**. Further based on undisputed evidence I also find that the Landlord has established a monetary claim for **\$6,500.00** in unpaid rent. Setting the security deposit of **\$500.00** plus zero interest off the entitlement leaves **\$6,000.00** owed by the Tenants to the Landlord. As the Tenants are required to move out of the unit, I find that the Tenants' claims for repairs and a rent reduction are no longer relevant and I dismiss the remainder of the Tenants' application. The Tenant is at liberty to make an application for compensation in relation to the tenancy and the condition of the unit.

Conclusion

I **grant** an Order of Possession to the Landlord. 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 \$500.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$6,000.00**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

The Tenants' application is dismissed.

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: September 4, 2013

Residential Tenancy Branch

