



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Boliver Heights Market Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPR, MNR, MNDC, FF
MT, CNR, FF

Introduction

This hearing concerns 2 applications: i) by the landlord for an order of possession for unpaid rent / a monetary order as compensation for unpaid rent / compensation for damage or loss under the Act, Regulation or tenancy agreement / and recovery of the filing fee; and ii) by the tenant for more time to make an application to cancel a notice to end tenancy / cancellation of a notice to end tenancy for unpaid rent / and recovery of the filing fee.

Both parties attended and gave affirmed testimony.

Issue(s) to be Decided

Whether either party is entitled to any of the above under the Act, Regulation or tenancy agreement.

Background and Evidence

The rental unit which is the subject of this dispute is located in a 2 storied building; the rental unit is upstairs in the building and beneath the rental unit is a store.

The dispute is comprised of a remarkably involved set of circumstances. In summary, tenancy began on March 1, 2013. There is no written tenancy agreement. No security deposit was collected and the landlord claims the tenant is obligated to pay monthly rent of \$1,500.00. The landlord also claims that no rent whatsoever has been paid by the tenant since the tenancy began. For his part, the tenant claims that the unit is provided as a condition of his employment in the store. The tenant also claims that he has paid rent of \$1,000.00 per month in cash. Further to the respective applications for dispute resolution, the only documentary evidence before me is a 10 day notice to end tenancy for unpaid rent dated July 10, 2013.

The landlord claims the 10 day notice was served by way of posting on the unit door on July 11, 2013. The tenant claims the notice was served by way of posting on the unit door on July 17, 2013. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is July 20, 2013. The tenant acknowledges that he has paid no rent for August 2013, and he continues to reside in the unit.

During the hearing the parties undertook to resolve the dispute.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Section 63 of the Act speaks to the **Opportunity to settle dispute**, and provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion led to a resolution and it was specifically agreed as follows:

RECORD OF SETTLEMENT

- that the tenant will vacate the unit by not later than **September 30, 2013**, and that an **order of possession** will be issued in favour of the landlord to that effect;
- that the tenant will pay rent in the total amount of \$2,000.00 for August and September 2013 combined, and that a **monetary order** will be issued in favour of the landlord to that effect;
- that the landlord waives any entitlement to rent which may be unpaid in full for the period from March 1 to September 30, 2013, with the exception of the amount of \$2,000.00, as above.

As the parties achieved a settlement of their dispute, the respective applications to recover the filing fee are both hereby dismissed.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **1:00 p.m., Monday, September 30, 2013**. This order must be served on the tenant.

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.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$2,000.00**. Should it be necessary, this order may be served on the tenant, filed in the Small Claims Court and 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: August 26, 2013

Residential Tenancy Branch

