



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 686905 B.C. Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPR, MNR, FF
CNR, MNDC, 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 /and recovery of the filing fee; and ii) by the tenant for cancellation of a notice to end tenancy for unpaid rent / a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / and recovery of the filing fee.

Both parties attended and gave affirmed testimony.

Issue(s) to be Decided

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

Background and Evidence

Two relatively recent hearings were held in disputes between these parties: 1) file # 808344 – decision dated June 27, 2013; and 2) files # 809284 / 809286 – decision dated July 25, 2013.

While there are several notices of rent increase in evidence, there is no written tenancy agreement presently in evidence before me. Despite this, there appears to be no dispute that a written tenancy agreement was created when tenancy began on April 1, 1997, and that the tenancy agreement provides that all rent is due and payable in advance on the first day of each month.

Currently, the monthly rent is \$810.00, and monthly parking is \$50.00 (2 parking stalls @ \$25.00 per stall). The total amount due each month is therefore \$860.00. The issue of when payment is due is addressed in the decision dated June 27, 2013. As the

tenant succeeded in having the landlord's 1 month notice set aside, that decision also provides that the tenant may recover his filing fee by reducing payment for July 2013, in the amount of \$50.00, making \$810.00 the total amount due for July (\$860.00 - \$50.00).

Following the decision, the landlord gave notice to the tenant by letter dated July 3, 2013 of expectations around dates for future payment of rent. In summary, the landlord stated that effective October 1, 2013, the full amount of rent is due on the first day of each month. In the meantime, for the months of July, August and September 2013, the landlord informed the tenant that payment of rent may be made in two monthly installments, as follows:

\$600.00 by the 8th of each month
\$260.00 by the 18th of each month

Arising from rent / parking which remained unpaid for June, the landlord issued a 10 day notice to end tenancy for unpaid rent, which is also dated July 3, 2013. The notice was served by way of delivery through the unit mail slot on July 3, 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 13, 2013. Subsequently, the tenant filed an application for dispute resolution on July 8, 2013, however no further payments have been made toward rent and the tenant continues to reside in the unit.

In his application, as above, the tenant also seeks compensation in the total amount of \$3,000.00, in summary as follows:

\$500.00: value of property loss resulting from break-in at the unit
\$700.00: alleged loss of quiet enjoyment during a period of renovations at the building
\$1,600.00: alleged loss of quiet enjoyment arising from disturbances from neighbours
\$200.00: labour and material for painting of bathroom wall

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 partial resolution and it was specifically agreed as follows:

RECORD OF SETTLEMENT

- that rent in the total amount of **\$2,530.00** is currently unpaid:

\$860.00: *June*

\$810.00: *July*

\$860.00: *August*

- that a **monetary order** will be issued in favour of the landlord for the total amount above;
- that the tenant will make payment of the total amount above as follows:

\$1,670.00 (\$860.00 - June & \$810.00 - July) by **no later than midnight, Friday, August 16, 2013;**

\$860.00 (August) by **no later than midnight, Friday, August 30, 2013;**

- that the landlord agrees to cancellation of the 10 day notice to end tenancy for unpaid rent dated July 3, 2013;
- that the tenant withdraws his application for compensation in the total amount of \$3,000.00.

With respect to dates for payment of rent in September, the tenant was not agreeable to the landlord's proposal that \$600.00 be paid by September 8th, and that the balance of \$260.00 be paid by September 18th, 2013. However, the tenant's counterproposal was unspecific and non-committal. Following from all the above, **I HEREBY ORDER that the effective due dates and amounts for payment of rent for September 2013 are as follows:**

\$430.00 due and payable by no later than midnight, Monday, September 16;

\$430.00 due and payable by no later than midnight, Monday, September 30;

Going forward, I hereby ORDER that effective October 1, 2013 all rent is due and payable in advance on the first day of each month.

As both parties have achieved a measure of success with their applications, the respective applications to recover the filing fee are hereby dismissed.

Conclusion

The 10 day notice to end tenancy for unpaid rent dated July 3, 2013 is hereby set aside, and the tenancy presently continues in full force and effect.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$2,530.00**. 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 12, 2013

Residential Tenancy Branch

