



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

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

Introduction

There are applications filed by both parties. The Landlord seeks an order of possession and a monetary order for unpaid rent, for money owed or compensation for damage or loss, to keep all or part of the security deposit and recovery of the filing fee. The Tenant seeks more time to be allowed to make an application to cancel a notice to end tenancy and if allowed, to cancel a notice to end tenancy issued for unpaid rent.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended and have confirmed receipt of the notice of hearing package of the other party, I am satisfied that each party has been properly served. Both parties have also acknowledged receipt of the submitted documentary evidence.

It was clarified with the Tenant at the beginning of the hearing that she was not seeking an extension to make an application to be allowed to make an application to cancel a notice. The Tenant stated that she was not disputing the notice, but wished for more time to vacate the rental unit. The Tenant confirmed receiving the notice to end tenancy dated June 28, 2013 posted to the rental unit door. The Tenant filed for dispute resolution on July 3, 2013. I find that the Tenant's request for more time is not necessary as the Tenant has applied within the allowed time frame after receiving it. The Tenant's Application for more time is dismissed.

Issue(s) to be Decided

Is the Tenant entitled to an order cancelling the notice to end tenancy for unpaid rent?
Is the Landlord entitled to an order of possession?
Is the Landlord entitled to a monetary order?
Is the Landlord entitled to retain the security deposit?

Background and Evidence

This Tenancy began on October 1, 2012 on a month to month basis as shown by the submitted copy of the signed tenancy agreement. The monthly rent is \$1,000.00 payable on the 1st of each month, which was lowered to \$900.00 in February of 2013. The Tenant paid \$500.00 for a security deposit on October 31, 2012.

The Landlord states that the Tenant was served with a 10 day notice to end tenancy issued for unpaid rent dated June 28, 2013 by posting it to the rental unit door on June 28, 2013 with a witness. The Tenant has confirmed receipt of the notice in her direct testimony. The Landlord has submitted a copy of proof of service document dated June 28, 2013 as confirmation. The notice states that the Tenant failed to pay rent of \$1,150.00 that was due on June 1, 2013.

The Landlord seeks an order of possession and a monetary order for unpaid rent. The Landlord states that the Tenant is currently in arrears for \$3,050.00. This consists of \$250.00 for unpaid rent for May 2013, \$900.00 in unpaid rent for June 2013, \$900.00 in unpaid rent for July and \$900.00 in unpaid rent for August 2013. The Tenant confirmed in her direct testimony that these rents are in arrears.

The Tenant states that she had a verbal agreement with the Landlord that her rent would be lowered to \$100.00 per month. The Landlord disputes this stating that she agreed to receive the Tenant's entire rent in increments instead of all at once, like a payment plan, but that the Tenant failed to pay any rent.

Analysis

I find that the Tenant has failed to provide sufficient evidence to satisfy me that a verbal agreement existed, lowering her monthly rent to \$100.00. In any event, based upon the Tenant's own direct testimony, no rent has been paid for June, July and August and partial rent for May 2013.

I accept the undisputed testimony of the Landlord. The Tenant has confirmed in her testimony that she has failed to pay rent of \$3,050.00 for the months May, June, July and August. The Landlord has established a claim for an order of possession and a monetary order for unpaid rent of \$3,050.00. The Landlord is granted an order of possession. The Tenant must be served with the 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.

The Landlord has established a monetary claim for \$3,050.00 in unpaid rent. The Landlord is also entitled to recovery of the \$50.00 filing fee. I order that the Landlord retain the \$500.00 security deposit in partial satisfaction of the claim and I grant a monetary order for \$2,600.00 for the balance due. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Tenant's Application to cancel the notice to end tenancy is dismissed.
The Landlord is granted an order of possession and a monetary order for \$2,600.00.
The Landlord may retain the security deposit.

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 07, 2013

Residential Tenancy Branch

