



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Arch Western Real Estate Services
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: ET/OP, FF

Introduction

This hearing was scheduled in response to the landlord's application for an early end to tenancy early and an order of possession / in addition to recovery of the filing fee. Both parties attended and gave affirmed testimony.

Issue(s) to be Decided

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

Background and Evidence

The landlord and tenant "DF" entered into a tenancy agreement commencing on March 1, 1986, and a security deposit of \$300.00 was collected. Tenant "DF" died on July 6, 2013, however, three people presently continue to reside in the unit. Two of the current residents are named in the landlord's application: "JEH" and "MSM." The tenants testified that "RD" (the other party named in the landlord's application) has vacated the unit and that another person, "FS" currently also resides in the unit. There is no written tenancy agreement in evidence between the landlord and any of the aforementioned persons who presently reside in the unit.

During the hearing, the parties undertook to resolve their current 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(s) / occupant(s) will vacate the unit by no later than **September 30, 2013**, and that an **order of possession** will be issued in favour of the landlord to that effect;

- that a **monetary order** in the amount of **\$1,828.50** will be issued in favour of the landlord which reflects the following:
 - i) unpaid rent from 2012 of \$250.00;

 - ii) unpaid rent for August 2013 of \$1,082.00;

 - iii) unpaid rent for September 2013 of \$1,082.00; and

 - iv) the landlord's retention of the security deposit (\$300.00) plus all interest accrued since its collection on March 1, 1986 (\$285.50)

\$250.00
+ \$1,082.00
+ \$1,082.00
\$2,414.00

MINUS \$585.50 (\$300.00 + \$285.50)

TOTAL: \$1,828.50

- that the following hearings scheduled in response to the tenant(s)' / occupant(s)' applications are cancelled:

September 10, 2013 (file # 809783)
October 4, 2013 (file # 811559)

As the end of tenancy draws near, the attention of the parties is drawn to section 37 of the Act which speaks to **Leaving the rental unit at the end of a tenancy**:

37(1) Unless a landlord and tenant otherwise agree, the tenant must vacate the rental unit by 1 p.m. on the day the tenancy ends.

(2) When a tenant vacates a rental unit, the tenant must

- (a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and
- (b) give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

Additionally, the parties are referred to Residential Tenancy Policy Guideline # 1 which addresses "Landlord & Tenant – Responsibility for Residential Premises."

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **Monday, September 30, 2013**. This order must be served on the tenant(s) / occupant(s). Should the tenant(s) / occupant(s) 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 **\$1,828.50**. Should it be necessary, this order may be served on the tenant(s) / occupant(s), filed in the Small Claims Court and enforced as an order of that Court.

As matters in dispute concerning an order of possession and unpaid rent were resolved, and as the tenant(s) / occupant(s) agreed to cancellation of two additional hearings scheduled in response to their related applications, I find it reasonable that the landlord bears the cost of the \$50.00 filing fee for the current application. Accordingly, the landlord's application to recover the filing fee is hereby 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 05, 2013

Residential Tenancy Branch

