



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, MNSD, FF
OLC, ERP, RP, RR, FF

Introduction

This hearing concerns 2 applications: i) by the landlord for an order of possession / a monetary order as compensation for unpaid rent / retention of the security deposit / and recovery of the filing fee; and ii) by the tenant for an order instructing the landlord to comply with the Act, Regulation or tenancy agreement / an order instructing the landlord to make emergency repairs for health or safety reasons / an order instructing the landlord to make repairs to the unit, site or property / permission to reduce rent for repairs, services or facilities agreed upon but not provided / 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

Pursuant to a written tenancy agreement, a copy of which is not in evidence, the parties agree that the tenancy began a little more than 3 years ago. Monthly rent of \$975.00 is due and payable in advance on the first day of each month, and a security deposit of \$487.50 was collected.

Arising from rent which remained unpaid when due on August 1, 2013, the landlord issued a 10 day notice to end tenancy for unpaid rent dated August 3, 2013. The landlord testified that the notice was served by way of posting on the unit door on that same date; however, the tenant testified that he only became aware of the notice when he received a copy of it in the landlord's hearing package. In any event, there is no dispute that rent has not been paid for either August or September 2013.

The tenant testified that he filed an application to dispute the 10 day notice, and that a hearing has been scheduled for October 18, 2013 (file # 812218).

During the hearing the parties undertook to achieve a resolution of their 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 not later than **Saturday, October 12, 2013**, and that an **order of possession** will be issued in favour of the landlord to that effect;
- that the **landlord waives** entitlement to unpaid rent for August and September 2013;
- that the **tenant consents** to the landlord's retention of the full security deposit of **\$487.50**;
- that the **tenant withdraws** all aspects of his application;
- that the **hearing** scheduled on **October 18, 2013** in response to the tenant's application for dispute resolution is hereby **cancelled**;
- that the above particulars comprise **full and final settlement** of all issues in dispute for both parties, which arise out of this tenancy and which are currently before me.

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

As the end of tenancy nears, the attention of the parties is drawn to section 37 of the Act which addresses **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.

Conclusion

I hereby issue an **order of possession** in favour of the landlord not later than **Saturday, October 12, 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.

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 23, 2013

Residential Tenancy Branch

