



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, RP, AAT

Introduction

This hearing concerns 2 applications: i) by the landlord for an order of possession / a monetary order as compensation for unpaid rent / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of the security deposit / 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 / an order instructing the landlord to make repairs to the unit, site or property / and permission for access to (or from) the unit for the tenant or the tenant's guests.

Both parties attended and / or were represented at the hearing 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

There is no written tenancy agreement in evidence for this tenancy which began approximately 20 years ago. Monthly rent of \$830.00 is due and payable in advance on the first day of each month. As the parties have no clear recollection or definitive documentation related to the collection of a security deposit, the landlord withdrew his application for retention of the security deposit.

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 8, 2013. The notice was served in-person on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is August 18, 2013. Subsequently, while the tenant filed an application to dispute the

notice on August 16, 2013, he made no further payment toward rent and he continues to reside in the unit.

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

Based on the documentary evidence and testimony, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated August 8, 2013. The tenant did not pay any portion of the outstanding rent within 5 days of receiving the notice, and while he applied to dispute the notice his application was not filed within 5 days of being served with the 10 day notice.

As to reasons in support of his application for more time to make an application to cancel a notice to end tenancy (as his application was filed late), I find that the tenant presented no clear explanation. Accordingly, the tenant's application for more time to make an application to cancel a notice to end tenancy is hereby dismissed, and I find that the landlord has established entitlement to an **order of possession**.

As the end of tenancy is near, all other aspects of the tenant's application are also hereby dismissed.

In regard to the **monetary order**, I find that the landlord has established entitlement to a claim of **\$5,000.00**, which is calculated as follows:

\$4,980.00: *unpaid rent, 6 months from April to September (6 x \$830.00)*
\$20.00: *portion of the \$50.00 filing fee*

Had the landlord been awarded full recovery of the \$50.00 filing fee, his entitlement would exceed \$5,000.00, which is the maximum amount able to be claimed pursuant to payment of a \$50.00 filing fee. As the landlord paid only a \$50.00 filing fee, the landlord's entitlement is limited to \$5,000.00, which reflects recovery limited to \$20.00 of the \$50.00 filing fee paid. The matter of filing fees is addressed fully in section 8 of the Regulation: **Fee for starting application for dispute resolution**.

Conclusion

I hereby issue an order of possession in favour of the landlord effective not later than **two (2) days** after service on the tenant. 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 **\$5,000.00**. Should it be necessary, this order may be 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: September 25, 2013

Residential Tenancy Branch

