



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, MNR, CNC, OLC, RP, ERP, FF

Introduction

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*.

The landlord applied for the following:

- An order of possession pursuant to Section 55.
- A monetary order for rent owed and loss of revenue, pursuant to Section 67.
- Reimbursement for the cost of the application.

The tenant applied for the following:

- An order to cancel One Month Notice to End Tenancy for Cause pursuant to Section 47.
- An order to force the landlord to comply with the Act.
- An order to force the landlord to complete repairs or emergency repairs.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The participants had an opportunity to submit documentary evidence prior to this hearing, and the evidence has been reviewed. The parties were also permitted to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the affirmed testimony and relevant evidence that was properly served.

Just after the hearing began, the tenant advised that she would be vacating the rental unit on November 9, 2013. As the tenant was no longer planning to remain in the rental unit, I find the issues to be determined in the tenant's application are now moot. Accordingly, the tenant's application is dismissed.

The landlord testified that he still wants to proceed with respect to the landlord's request for an Order of Possession and the monetary claim for rental arrears.

Issue to be decided

Is the landlord entitled to a monetary order for rental arrears?

Background and Evidence

The landlord testified that the tenant failed to pay \$1,200.00 rent due on October 1, 2013 and a Ten Day Notice to End Tenancy for Unpaid Rent was issued and served on the tenant. No copy of the Notice was in evidence. However, the tenant acknowledged not paying the rent for October.

The landlord testified that the tenant has remained in the rental unit past November 1, 2013 when an additional amount of \$1,200.00 would be due. The landlord testified that he is likely to lose rent for the entire month of November and is seeking additional compensation.

Although the tenant has committed to vacating the rental unit this weekend, the landlord still seeks an Order of Possession based on the 10-Day Notice to End Tenancy for Unpaid Rent.

Analysis:

In regard to the rental arrears, I find that section 26 of the Act states that rent must be paid when it is due under the tenancy agreement, whether or not the landlord complies with the Act, the regulations or the tenancy agreement.

If the tenant does not pay rent when it is due, the landlord can issue a Notice to End Tenancy for Unpaid Rent under section 46 of the Act. I find that the Notice was properly issued and served and that the tenant did owe rental arrears of \$1,200.00 when the Notice was issued.

I find that the tenant did not pay the overdue rent and remained in the unit during October. Therefore I find that the landlord is entitled to \$1,200.00 compensation and is entitled to retain the tenant's security and pet damage deposits of \$1,200.00 in full satisfaction of the rent claim.

In regard to the landlord's additional claims for compensation for loss of revenue for the month of November 2013, I find that this is considered to be a claim in damages. I find that the tenant has not yet vacated the rental unit and the landlord's claim for loss of rent for November is therefore premature. Accordingly, I dismiss this portion of the landlord's application with leave to reapply.

I find that the landlord is entitled to total compensation of \$1,200.00 for rental arrears for October 2013. I therefore order that the landlord retain the tenant's security and pet damage deposits totaling \$1,200.00 in satisfaction of the claim.

I hereby grant the landlord an Order of Possession effective 2 days after service on the tenant. This order must be served on the tenant and may be enforced through an order from the B.C. Supreme Court if necessary.

I hereby dismiss the tenant's application in its entirety without leave.

The portion of the landlord's application seeking compensation for loss of revenue and other damages is hereby dismissed with leave to reapply.

Each party is responsible for their own costs of the applications.

Conclusion

The tenant's application is dismissed as the matters under dispute are moot and the landlord is partially successful in the application and is granted an Order of Possession and ordered to retain the tenant's security deposit in full satisfaction of the claim.

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: November 06, 2013

Residential Tenancy Branch

