



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Ewald Rentals
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPR, MNR, MNDC, MNSD, FF
MNDC, OLC, ERP, PSF, RR, FF

Introduction

This hearing concerns 2 applications: i) by the landlord for an order of possession for unpaid rent / 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 a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / 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 provide services or facilities required by law / 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 "residential agreement," tenancy began on February 1, 2013. Monthly rent of \$885.00 is due and payable in advance on the first day of each month, and a security deposit of \$450.00 was collected.

Arising from rent which remained unpaid when due on November 1, 2013, the landlord issued a 10 day notice to end tenancy for unpaid rent dated November 2, 2013. The notice was served in-person on that same date. A copy of the notice was submitted in

evidence. Subsequently, the tenant has made no further payment toward rent and he continues to reside in the unit.

For the tenant's part, he claims in his application that there has been "no heat for 3 months," that the "toilet does not work," and that the landlord is "never available for rent payment on 1st of month."

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 November 2, 2013. The tenant did not pay the outstanding rent within 5 days of receiving the notice, and did not apply to dispute the notice. The tenant is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. Accordingly, I find that the landlord has established entitlement to an **order of possession**.

As for compensation, I find that the landlord has established entitlement to a claim of **\$1,820.00**, which is calculated as follows:

\$885.00: *unpaid rent for November*

\$885.00: *unpaid rent for December*

\$50.00: *filing fee*

I order that the landlord retain the security deposit of **\$450.00**, and I grant the landlord a **monetary order** for the balance owed of **\$1,370.00** (\$1,820.00 - \$450.00).

In the absence of documentary evidence to support the tenant's claim that there has been no heat in the unit for 3 months, or that the toilet does not work, or that he has taken these claims to the attention of the landlord for remedy, I find that the tenant has failed to meet the burden of proving entitlement to any of the related compensation sought in his application, or to certain orders. In summary, the tenant's application is hereby dismissed.

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 **\$1,370.00**. This order may be served on the tenant, 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: December 02, 2013

Residential Tenancy Branch

