



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Harron Investments Inc.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OP, FF
RP, FF

Introduction

This hearing was scheduled in response to 2 applications: i) by the landlord for an order of possession / and recovery of the filing fee; and ii) by the tenants for an order instructing the landlord to make repairs to the unit, site or property / 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

There is no written tenancy agreement in evidence which reflects the specific terms agreed to when this tenancy initially began on June 15, 2012, at which time a security deposit of \$377.50 was collected.

The current landlord took over management of the building on or about May 28, 2013. Thereafter, the parties entered into a written tenancy agreement for the 6 month fixed term from July 1 to December 31, 2013. A copy of this tenancy agreement is in evidence. Monthly rent of \$780.00 is due and payable in advance on the first day of each month.

The tenancy agreement reflects agreement between the parties in regard to what will occur at the end of the fixed term. Specifically, the agreement provides that "the tenancy is ended and the tenant must vacate the rental unit." In addition to a ticked box on the agreement, both parties have affixed their initials / signatures to the agreement to reflect that they understand and agree to this particular condition.

By letter dated October 14, 2013, the tenant informed the landlord that “heat in my unit is not working normally,” and that “the carpet in my unit is very filthy and full of bad odor.” By letter of response dated October 25, 2013, the landlord informed the tenant in part, that “according to the move-in inspection that was done in June 2012, the carpet was shampooed and in good condition as agreed by both parties,” and “your fixed term lease ends on December 31st, 2013 that gives you an opportunity to find a better place to satisfy your living needs.”

During the hearing the parties agreed that the landlord had attended the unit following the landlord’s receipt of the tenant’s letter, and that the tenant’s concern about heating was remedied.

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 55 of the Act speaks to **Order of possession for the landlord**, in part as follows:

55(2) A landlord may request an order of possession of a rental unit in any of the following circumstances by making an application for dispute resolution:

(c) the tenancy agreement is a fixed term tenancy agreement that provides that the tenant will vacate the rental unit at the end of the fixed term;

Based on the documentary evidence and testimony, and in consideration of the statutory provisions set out immediately above, I find that the landlord has established entitlement to an **order of possession**.

As the landlord has succeeded with this application, I find that the landlord has also established entitlement to recovery of the \$50.00 filing fee. I order that this amount may be withheld from the security deposit at the end of tenancy.

As the parties agreed that any problem with the heating in the unit was remedied following the landlord’s receipt of the tenant’s letter dated October 14, 2013, I consider this aspect of the application to be withdrawn.

As the tenancy nears an end, I find there is no requirement that I issue any order against the landlord in relation to cleaning or replacing the carpet. Further, I note the landlord's comments, as above, in relation to the condition of the carpet as set out in her letter to the tenants dated October 25, 2013.

As the tenants have not succeeded with their application, their application to recover the \$50.00 filing fee is hereby dismissed.

As the end of tenancy approaches, 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**, and section 38 of the Act which addresses **Return of security deposit and pet damage deposit**.

Conclusion

The tenants' application is hereby dismissed.

I hereby issue an **order of possession** in favour of the landlord effective **December 31, 2013**. This order must be served on the tenants. Should the tenants fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of the Court.

I order that the landlord may recover the **\$50.00** filing fee by way of withholding that amount from the tenants' security deposit at the end of tenancy.

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 05, 2013

Residential Tenancy Branch

