



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

CNR, MT, MNR, MNDC, RR, FF

Introduction

This hearing dealt with an application by the tenant for an order to set aside a notice to end tenancy for nonpayment of rent and for more time to do so. The tenant also applied for a monetary order for emergency repairs done by her, compensation for loss under the *Act*, and for the filing fee. The tenant applied for a rent reduction. Both parties attended the hearing and had opportunity to be heard.

During the hearing the tenant stated that she had applied for the cost of emergency repairs in error.

Issue to be Decided

Does the landlord have grounds to end this tenancy? Is the tenant entitled to compensation, a rent reduction and to the recovery of the filing fee?

Background and Evidence

The tenancy began on August 15, 2013. The rental unit is a house shared by two roommates and their children. The monthly rent is \$1,625.00 per month payable on the first of each month. Prior to moving in the tenant paid a security deposit and a pet deposit totaling \$1,625.00.

The tenant agreed that she owed rent in the amount of \$1,225.00 for the month of November and has not paid rent for December. On November 16, 2013, the tenant received a notice to end tenancy for nonpayment of rent. The tenant applied to dispute the notice but did not do so in a timely manner. In any event the tenant did not pay rent within five days of receiving the notice and as of the date of this hearing the tenant agreed that she owed the landlord \$1,225.00 for November plus \$1,625.00 for December 2013. During the hearing the landlord requested for an order of possession, in the event that I uphold the notice to end tenancy.

The tenant stated that when she moved in on August 15, 2013, the fence was broken and the landlord agreed to have it fixed. The landlord did not do so in a timely manner and on September 28, the tenant's dog ran out and got run over by a car. The tenant stated that she incurred vet bills and the cost to cremate the dog. The tenant is claiming \$300.00 as compensation for the loss of her dog.

The tenant also stated that sometime in September, she emailed the landlord to inform him of a leak in the house. The landlord denied having received an email and the tenant did not file a copy of the email into evidence. The tenant stated that she called the landlord on November 15, to report a leaking toilet. The landlord stated that within one hour of receiving the tenant's call, he attended the rental unit and had the leak fixed.

The tenant stated that the leak ruined some of her belongings and she is claiming \$200.00 for the loss of her blow dryer, \$100.00 for the loss of her straightener, \$50.00 for the loss of clothes and \$28.00 for the loss of her makeup. The tenant did not file any documentary evidence to support her claim.

Analysis:

Based on the sworn testimony of the both parties, I find that the tenant received the notice to end tenancy for unpaid rent, on November 16, 2013 and did not pay rent within five days of receiving the notice to end tenancy. Accordingly, I uphold the notice to end tenancy.

During the hearing, the landlord made a request under section 55 of the legislation for an order of possession. Under the provisions of section 55(1), upon the request of a landlord, I must issue an order of possession when I have upheld a notice to end tenancy. Accordingly, I so order. The tenant must be served with the order of possession. 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.

Based on the sworn testimony of both parties, I find that the landlord did not fix the fence as promised, in a timely manner. This resulted in the loss of the tenant's dog. The tenant did not file any documents to support her claim but I find that the landlord failed to act in a timely manner. *Residential Tenancy Policy Guideline #16* states that an arbitrator may award "nominal damages" which are a minimal award. These damages may be awarded where there has been no significant loss, but they are an affirmation that there has been an infraction of a legal right. Accordingly I find it appropriate to award the tenant \$300.00 for the loss of her dog.

The tenant did not file any documentary evidence to support her claim for the alleged loss of her items due to the water leak. I accept the landlord's testimony that he fixed the leak within one hour of receiving the complaint. Therefore I dismiss the tenant's application for compensation for the loss of her items.

Since the tenancy is ending, the tenant's application for a rent reduction is dismissed. The tenant has failed to prove her case and must therefore bear the cost of filing this application.

The landlord is at liberty to file his own application for a monetary order for unpaid rent.

Conclusion

I grant the landlord an order of possession effective two days after service on the tenant.

The tenant may make a deduction of \$300.00 from the rent owed to the landlord. The balance of the tenant's application is dismissed.

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 17, 2013

Residential Tenancy Branch

