



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

ERP, OPR, MNR, MNSD, FF

Introduction

This hearing was convened in response to an application by the landlord **and** an application by the tenant.

The tenant sought an Order for emergency repairs.

The landlord sought an Order of Possession due to unpaid rent, a Monetary Order to recover rental arrears and inclusive of recovery of the filing fee associated with this application, and an order to retain the security deposit in partial satisfaction of the monetary claim.

Both parties appeared in the conference call hearing and participated with their submissions and testimony.

The tenant advised they are in midst of vacating which they plan to do within days of this Decision a soon as January 08, 2014. As a result they do not oppose the landlord request for an Order of Possession. Effectively the tenant does not pursue their claim for emergency repairs; which, as a further result, renders the tenant's application as **dismissed**, without leave to reapply.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to the monetary amounts claimed?

Background and Evidence

The testimony and evidence of the landlord and the tenant is that the tenancy began on September 12, 2013 as a fixed term tenancy ending 2 months later on November 12,

2013. The tenant still resides in the rental unit as of this date. Rent in the amount of \$1800 is payable in advance on the twelfth (12) day of each month. At the outset of the tenancy, the only evidence agreed to is that the landlord collected a security deposit from the tenant in the amount of \$500.00 which they retain in trust. The parties disagree on any further amount being paid and there is no evidence to support any additional amount. The tenant failed to pay all rent in the second month of occupancy for which they owe \$300.00. The tenant agrees they have not paid any further rent to date. The quantum of the landlord's monetary claim is for the rent arrears to November 12, 2013 and over holding rent to the end of the tenancy. The landlord further seeks an immediate Order of Possession.

Analysis

Based on the testimony of the landlord and the tenant I find that the tenant was served with a notice to end tenancy for non-payment of rent. The tenant has not paid the outstanding rent and despite having applied for dispute resolution they do not have evidence upon which to dispute the landlord's claim and are vacating the unit.

Based on the above facts I find that the landlord is entitled to an **Order of Possession**.

I also find that the landlord has established a monetary claim for unpaid rent and for over holding. The landlord is also entitled to recovery of the \$50.00 filing fee. The security deposit will be off-set from the award made herein.

Calculation for Monetary Order

Rental Arrears to November 12, 2013	\$300.00
Over holding rent equivalent - to December 12, 2013	\$1800.00
Over holding rent to January 08, 2014 – prorated (\$60.00 x 26 days)	\$1560.00
Filing Fees for the cost of this application	50.00
Less Security Deposit and applicable interest <i>to date</i>	-500.00
Total Monetary Award	\$3210.00

Conclusion

The tenant's application is **dismissed**.

I grant an Order of Possession to the landlord **effective 2 days** from the day it is served upon the tenant. The tenant must be served with this 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.

I order that the landlord retain the deposit and interest of \$500.00 in partial satisfaction of the claim and I grant the landlord an order under Section 67 of the Act for the balance due of **\$3210.00**. If 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: January 06, 2014

Residential Tenancy Branch

