



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, OLC, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The tenant has filed an application seeking to have the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities set aside, an order to have the landlord comply with the Act, and an order to have his security deposit returned. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

Issues to be Decided

Is either party entitled to any of the above under the Act, regulation or the tenancy agreement?

Background and Evidence

The landlord gave the following testimony:

The tenancy began on or about April 2010. Rent in the amount of \$1725.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$850.00. The tenant failed to pay rent in the month(s) of October 2013 – January 2014 and on January 5, 2014 the landlord served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month(s) of February and March. The landlord advised that as of today's hearing the amount of unpaid rent is \$8750.00.

The tenant gave the following testimony:

The tenant stated that he agrees that he has not paid the rent for the past three months. The tenant stated he has paid all the rent for October, November and December.

Analysis

I accept the landlord's testimony and I find that the tenant was served with a notice to end tenancy for non-payment of rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice and although he did apply for dispute resolution to dispute the notice the tenant did not provide sufficient evidence to have that notice set aside. Based on the above facts I find that the landlord is entitled to an order of possession. 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.

As for the monetary order, I find that the landlord has established a claim for \$8750.00 in unpaid rent. The tenant was unable to provide documentation to dispute that amount. The landlord is also entitled to recovery of the \$50.00 filing fee. Although the landlord's application does not seek to retain the deposit, using the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain the tenant's \$850.00 security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$7950.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

As I have found that the tenancy is terminated I need not address the issues brought forward by the tenant and therefore dismiss his application in its entirety.

Conclusion

The landlord is granted an order of possession and a monetary order for \$7950.00. The landlord may retain the security deposit.

The tenants' application is dismissed in its entirety.

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: March 04, 2014

Residential Tenancy Branch

