



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") for an order of possession for the rental unit due to unpaid rent, a monetary order for unpaid rent, for authority to retain the tenants' security deposit, and to recover the filing fee.

The hearing process was explained to the parties attending the hearing and they were given an opportunity to ask questions about the hearing process.

No party raised any issue regarding service of the evidence.

Thereafter all parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit due to unpaid rent, monetary compensation and to recover the filing fee?

Background and Evidence

The undisputed evidence shows that the landlord and tenant CB signed a tenancy agreement on September 18, 2013, for a tenancy beginning on September 19, 2013, for

a monthly rent of \$850, and a security deposit of \$525 and a pet damage deposit of \$100 being paid by CB.

All parties acknowledged that tenant MC did not sign the tenancy agreement nor has she ever made a rent payment.

The landlord gave evidence that on January 2, 2014, he posted a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on the door of the rental unit, listing MC as tenant and unpaid rent of \$850 which was due on January 1, 2014. The effective vacancy date listed on the Notice was January 12, 2014.

The other undisputed evidence is that tenant CB vacated the rental unit on December 22, 2013, and gave a written notice on December 26, 2013, ending the tenancy. This written notice was entered into evidence by the landlord, and shows that CB signed the notice to vacate on January 14, 2014. The notice to vacate also states that CB was the only tenant of the rental unit.

The landlord stated that he never considered MC a tenant, although there was some discussion between the parties that the landlord and MC would sign a tenancy agreement and that MC would begin paying rent.

MC contended that she called the landlord to arrange to pay rent, but that he never showed up. MC also stated that sometime in January 2014, two police officers came to the rental unit and informed her she was a squatter in the rental unit.

CB agreed that he may owe rent for January, but that he is not responsible for rent for February 2014, as the tenancy was terminated at that point.

Analysis

Based on the oral and written evidence and on a balance of probabilities, I find as follows:

Residential Tenancy Branch Policy Guideline #13 defines an occupant as a situation where a tenant allows a person who is not a tenant to move into the premises. The new occupant has no rights or obligations under the tenancy agreement, unless all parties agree to enter into a tenancy agreement to include the new occupant as a tenant.

In the circumstances before me, I find that respondent MC was an occupant of the rental unit as she did not sign the tenancy agreement and never paid rent or a security

deposit or pet damage deposit. Additionally all parties agreed that the MC was not a tenant in this matter. I therefore find that I have no jurisdiction over MC as I find she is not a tenant as contemplated under the Residential Tenancy Act, has no legal standing under the Act, and I therefore decline to make any findings where she is concerned.

As to the landlord's claim against the other respondent, CB, the evidence shows that the tenancy pertaining to CB ended on December 22, 2013, when he vacated the rental unit, according to section 44(1)(b) of the Act. I, however, find that CB was responsible to pay rent to the landlord for the month of January, as the notice given to the landlord was insufficient, as required by section 45(1) of the Act that the tenant must give the landlord written notice at least one clear calendar month before the next rent payment is due.

I therefore find the landlord is entitled to a monetary award of \$850 for loss of rent revenue for January 2014.

As to the landlord's claim for loss of rent revenue for February 2014, I find that I am unable to award him this amount as the tenancy had ended on December 22, 2013, when the tenant vacated the rental unit, and as MC, who remained in the rental unit, was not a tenant, legally responsible to pay rent.

As the tenancy ended on December 22, 2013, I also decline to award the landlord an order of possession for the rental unit. I note that MC stated that she was moving from the rental unit the weekend following the hearing.

Due to the above, I find that the landlord is entitled to a monetary award of \$900 comprised of loss of rent revenue for January 2014 in the amount of \$850 and the \$50 filing fee paid by the landlord for this application.

Conclusion

The landlord's application has been granted in part.

The landlord has been granted a monetary award in the amount of \$900.

At the landlord's request, I authorize the landlord to retain the tenant's security deposit of \$400 and the pet damage deposit of \$100 in partial satisfaction of the award.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the balance due, in the amount of \$400, which I have enclosed with the landlord's Decision.

Should the tenant fail to pay the landlord this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

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* and is being mailed to both the applicant and the respondents.

Dated: March 11, 2014

Residential Tenancy Branch

