



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OPR, OPL, MNR, MNDC, FF

Introduction

There are applications filed by both parties. The Tenant seeks an order to cancel a notice to end tenancy issued for unpaid rent. The Landlord seeks an order of possession and a monetary order for unpaid rent or utilities, an order of possession for Landlord's use of the property, a monetary order for money owed or compensation for damage or loss and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended and have confirmed receipt of the notice of hearing package and the submitted documentary evidence, I am satisfied that both parties have been properly served.

Issue(s) to be Decided

Is the Tenant entitled to an order cancelling the notice to end tenancy issued for unpaid rent?

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to a monetary order?

Background and Evidence

Both parties agreed that this tenancy began in 2012 and that there is no signed tenancy agreement. Both parties also agreed that there was a verbal agreement that the Tenants would pay 50% of the utilities.

Both parties confirmed in their direct testimony that a 10 day notice to end tenancy issued for unpaid utilities for \$1,173.82 dated January 27, 2014 was posted to the rental unit door on the same date. Both parties also agreed that no written demand was given to the Tenant as stated on the 10 day notice. Both parties agreed that there were prior

verbal demands for payment of the utilities. The Landlord clarified that the current utilities owed as of the date of this hearing is \$1,514.51. The Tenant, A.W. states he is not disputing that the current amount of utilities owed is \$1,514.51, but that he did not receive copies of the utility bills until these applications were filed as per his repeated requests for copies of the invoices

The Landlord also seeks an order of possession as a result of serving the Tenant with a 2 month notice to end tenancy issued for unpaid rent dated January 6, 2014. The Tenant has confirmed in his direct testimony that he was served with the notice, but has not filed an application for dispute resolution to dispute the notice. The notice states an effective end of tenancy date of March 1, 2014. It was clarified with both parties that this date does not signify two clear months as required under the Act. The effective end of tenancy date is corrected to April 1, 2014. The notice states a reason of "The rental unit will be occupied by the landlord or the landlord's spouse or a close family member (father, mother, or child) of the landlord or the landlord's spouse." The Tenant disputes the notice, but cannot provide any relevant claim that the Landlord will not comply in good faith as per the notice.

The Landlord seeks a monetary order for the recovery of unpaid utilities of \$1,514.51. The Tenant stated in his direct testimony that he is not contesting the amount owed for the utilities, but that prior to the hearing, he was not provided with copies of the invoices.

Analysis

I find based upon the direct testimony of both parties that the Landlord has failed to comply with the Act by making a written demand for payment of the utilities as per the 10 day notice dated January 27, 2014. The Landlord confirmed in her direct testimony that no written demand was ever made and that prior to the 10 day notice, only verbal requests were given to the Tenant. The 10 day notice to end tenancy issued for unpaid utilities dated January 27, 2014 is set aside. The Tenant's application is granted.

On the issue of the Landlord's request for an order of possession as a result of serving the Tenants a 2 month notice to end tenancy issued for Landlord's use dated January 6, 2014, I find that the Tenant was properly served with the notice as per the Tenant's direct testimony. The Tenant's are conclusively presumed to have accepted that the tenancy will end on April 1, 2014. In any event, the Tenant has failed to provide any relevant details that the Landlord will not follow through with the 2 month notice for Landlord's use dated January 6, 2014. The Landlord is granted an order of possession for April 1, 2014 at or before 12:00 pm. This order must be served upon 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 that Court.

As there is no dispute over the amount of owed utilities based upon the Tenant's direct testimony, I find that the Landlord has established a claim for \$1,514.51. The Landlord is also entitled to recovery of the \$50.00 filing fee. The Landlord is granted a monetary order for \$1,564.51. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

Conclusion

The Tenant's application to cancel a notice to end tenancy issued for unpaid utilities is granted. The notice dated January 27, 2014 is cancelled.

The Landlord is granted an order of possession as a result of a 2 month notice to end tenancy issued for Landlord's use dated January 6, 2014.

The Landlord is granted a monetary order for \$1,564.51.

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 19, 2014

Residential Tenancy Branch

