



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0906868 BC LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: MNR OPR MNSD FF

Introduction:

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for orders as follows:

- a) An Order of Possession pursuant to Sections 46, and 55;
- b) A Monetary Order for rental arrears and loss;
- c) To retain the security deposit to offset the amount owing; and
- d) An order to recover the filing fee pursuant to Section 72.

This hearing also dealt with an application by the tenant pursuant to the *Residential Tenancy Act* for orders as follows:

- e) To cancel a Notice to End Tenancy for unpaid rent pursuant to section 46;
- f) To order the landlord to do the necessary repairs pursuant to sections 32 and 33;
- g) To order the landlord to provide the facilities required by law; and
- h) To recover the filing fee for this Application.

SERVICE:

The tenant although an applicant did not attend. The landlord gave sworn evidence that they personally served the Notice to end Tenancy dated March 3, 2014 and the Application for Dispute Resolution. They also said they received the tenant's Application by personal service. I find that the parties were legally served with the documents according to sections 88 and 89 of the Act.

Issue(s) to be Decided:

The tenant was issued a Notice to End Tenancy for unpaid rent cause dated March 3, 2014. Has the landlord proved on a balance of probabilities that there are rental arrears or loss and that they are now entitled to an Order of Possession, a Monetary Order and to recover the filing fee?

Or is the tenant entitled to relief from the Notice to End Tenancy? Has the tenant proved on the balance of probabilities that the landlord has not done necessary or emergency repairs and is not providing the services required by law? Are they entitled to recover the filing fee for this Application?

Background and Evidence:

The tenant did not attend to provide evidence on their Application. The landlord attended and was given opportunity to be heard, to present evidence and to make submissions. The landlord testified that the tenancy commenced on November 1, 2010, a security deposit of \$375 was paid and rent is currently \$750 a month. The landlord testified that the tenant owes rent for March and April 2014 plus \$25 in late fees for each month. They request an Order of Possession and a monetary order and to retain the security deposit to offset the amount owing.

On their Application, the tenants did not dispute the amount owing but said there were ongoing plumbing problems. The landlord provided evidence of a professional plumbing inspection and repair and letters from other tenants confirming there is adequate heat.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis

Order of Possession

I find that the landlord is entitled to an Order of Possession. There is outstanding rent. Although the Tenants made application pursuant to Section 46 to set aside the Notice to End a Residential Tenancy, they did not attend the hearing to support their Application, or did not dispute the amount owing or provide good reason why the Notice should be set aside. An Order of Possession is issued effective two days from service.

Monetary Order

I find that there are rental arrears and loss in the amount of \$1550.00 representing rental arrears for March and April 2014 including late fees of \$25 for each month. As discussed with the landlord in the hearing, late fees are limited to \$25 a month pursuant to section 7(1) (d) of the Residential Tenancy Regulation. I find the landlord entitled to retain the security deposit to offset the amount owing.

I dismiss the Application of the tenants in its entirety and find them not entitled to recover filing fees for this application.

Conclusion:

I dismiss the Application of the tenants in its entirety and find them not entitled to recover filing fees for this application.

I find the landlord is entitled to an Order of Possession effective two days from service and a monetary order as calculated below. I find the landlord is entitled to retain the security deposit to offset the rental amount owing and to recover filing fees paid for this application.

I give the landlord leave to reapply for further losses and damages as necessary within the legislated time limit.

Calculation of Monetary Award:

Rent arrears and loss March and April 2014	1500.00
Late fees in each month (\$25x2)	50.00
Filing fee	50.00
Less security deposit (no interest 2010-14)	-375.00
Total Monetary Order to Landlord	1225.00

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: April 01, 2014

Residential Tenancy Branch

