



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPC, MND, MNR, MNDC, FF, CNR, CNC, ERP, RR

Introduction

There are applications filed by both parties. The landlord seeks an order of possession for unpaid rent and for cause, a monetary order for unpaid rent, for damage to the unit, site or property, for money owed or compensation for damage or loss and recovery of the filing fee. The tenants seek an order to cancel a notice to end tenancy issued for unpaid rent and for cause, an order for emergency repairs for health or safety reasons and to allow the tenant to reduce rent for repairs services or facilities agreed upon but not provided.

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

At the outset of the hearing the landlord disputes the tenant's application to cancel a notice to end tenancy issued for cause as the tenant did not file an application within the allowed 10 day period. Both parties confirmed that the landlord served the tenant with the 1 month notice to end tenancy issued for cause dated April 27, 2014 in person. The landlord also states that he had a witness confirm the service on April 27, 2014. The tenant's application for dispute resolution was filed on May 8, 2014 which is 11 days after he was served with the notice. The tenant states that he cannot provide an explanation as to why he did not file within the 10 day period nor did he apply for an extension of time, even though he states that he read the 1 month notice in detail. As such, the tenant's application to cancel a notice to end tenancy issued for cause is dismissed. The landlord's application for an order of possession is granted. The tenant must be served with the order. 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.

Although an order of possession was granted, both parties also wished to discuss and to continue the hearing regarding the possession issue regarding the 10 day notice to end tenancy issued for unpaid rent.

RTB Rules of Procedure 2.3 states that “if in the course of a dispute resolution proceeding, the Arbitrator determines that it is appropriate to do so, the Arbitrator may dismiss unrelated disputes contained in a single application with or without leave to reapply.” In this regard I find that the tenant has applied for an order for the landlord to make emergency repairs and for an order to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided. The tenant states that there are holes in the floor of the rental unit and in the back of the property since the beginning of the tenancy that started in November 2013. As these sections of the tenant's application are unrelated to the main section which is to cancel the notice to end tenancy issued for unpaid rent and for cause, I dismiss these sections of the tenant's claim with leave to reapply.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the tenant entitled to an order cancelling the notice(s) to end tenancy issued for unpaid rent?

Is the landlord entitled to a monetary order?

Background and Evidence

This tenancy began on November 1, 2013 on a month to month basis as shown by the submitted copy of the signed tenancy agreement. The monthly rent is \$750.00 payable on the 1st of each month. A security deposit of \$375.00 was paid on November 1, 2013.

The landlord states that the tenant was served with a 10 day notice to end tenancy issued for unpaid rent dated May 5, 2014 by posting it to the rental unit door with a witness. The notice states that the tenant failed to pay rent of \$750.00 that was due on May 1, 2014. The notice also displays an effective end of tenancy date of May 15, 2014.

The tenant states that he is unsure of when the notice was posted, but does confirm that the notice was posted when he received it.

The landlord states that since the notice was served upon the tenant that no rent has been paid as of the date of this hearing. The tenant confirmed this in his direct

testimony stating that it is not his fault that no rent has been paid as the ministry pays it directly to the landlord. The tenant states that when he tried to clarify the issue, the ministry stated that rent would not be paid until he had satisfied them by filing some documents.

Analysis

I accept the undisputed testimony of the landlord and the tenant that the tenant was properly served with the 10 day notice to end tenancy issued for unpaid rent dated May 5, 2014 by posting it to the rental unit door. The tenant has also confirmed that no rent has been paid in his direct testimony. The tenant is deemed to have accepted the tenancy ended on the effective date of the notice. The landlord has established grounds for an order of possession for unpaid rent. A second order of possession need not be issued.

As for the landlord's monetary claim, I find based upon the landlord's evidence and that of the tenant's direct testimony that no rent was paid that the landlord has established a monetary claim of \$1,500.00 for unpaid rent for May 2014 and June 2014 as the tenants still occupy the rental unit without paying any rent. The landlord is also entitled to recovery of the \$50.00 filing fee. The landlord is granted a monetary order under section 67 of the Act for \$1,550.00. This order may be filed in the Small Claims Division of Provincial Court for enforcement.

Conclusion

The landlord is granted an order of possession.

The landlord is granted a monetary order for \$1,550.00.

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: June 26, 2014

Residential Tenancy Branch

