



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR OPB MNR FF

Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order for unpaid rent and utilities. The landlord and the tenant participated in the teleconference hearing.

The tenant stated that she had filed her own application, which I confirmed was scheduled for September 2, 2014. The effective date of the notice to end tenancy that was subject of the landlord's application was effective on May 12, 2014. Because that date has already passed, I determined it was appropriate to proceed with the landlord's application for an order of possession and monetary compensation for unpaid rent.

In his application the landlord indicated was also seeking compensation for unpaid utilities, but neither his application nor his evidence provided a breakdown of the amounts claimed for utilities. I therefore dismiss this portion of the landlord's application with leave to reapply.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Background and Evidence

The tenancy began on March 27, 2014. The tenancy agreement indicates that rent of \$1200 is payable in advance on the first day of each month. The tenancy agreement is signed by three tenants. The tenant failed to pay rent in the month of May 2014 and on May 2, 2014 the landlord served the tenant with a notice to end tenancy for non-

payment of rent. The tenant paid \$800 toward rent on or about May 16, 2014, and then paid \$800 for June 2014 and \$800 for July 2014.

The landlord claimed \$1200 for unpaid rent, representing unpaid rent of \$400 for each of the months of May, June and July 2014.

The tenant stated that the tenant who was occupying the basement suite moved out, and then the landlord and the tenant had a verbal agreement that the rent would be \$800. The landlord denied making such an agreement with the tenants, and stated that he wrote the outstanding balance of rent on the rent receipts.

The tenant confirmed that they paid the landlord \$800 in rent for each of the months of May, June and July 2014.

Analysis

Upon consideration of the evidence and on a balance of probabilities, I find as follows.

I accept the evidence before me that the monthly rent remains at \$1200, as set out in writing in the tenancy agreement. I do not find it likely that the landlord verbally agreed to reduce the rent to \$800, given that he sought to enforce the notice to end tenancy for unpaid rent even after the tenants paid him \$800 for May 2014 rent.

As the tenant has failed to pay the full rent owed within the five days granted under section 46(4) of the Act, I find that the notice to end tenancy is valid and the tenancy ended on the effective date of the notice. The landlord is therefore entitled to an order of possession.

As for the monetary order, based on the above-noted evidence I find that the landlord has established a claim for \$1200 in unpaid rent. The landlord is also entitled to recovery of the \$50 filing fee.

As the landlord's application was mostly successful, I find he is entitled to recovery of the \$50 filing fee for the cost of his application.

Conclusion

I grant the landlord an order of possession effective two days from service. 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.

I grant the landlord an order under section 67 for the balance due of \$1250. This order may be filed in the Small Claims Court and enforced as an order of that Court.

The monetary portion of the landlord's application claiming for unpaid utilities is dismissed with leave to reapply.

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: July 4, 2014

Residential Tenancy Branch

