



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF, CNR, ERP, RP, LAT

Introduction

There are applications filed by both parties. The landlord seeks an order of possession and a monetary order for unpaid rent, to keep all or part of the security deposit and recovery of the filing fee. The tenant seeks an order cancelling the notice to end tenancy issued for unpaid rent, an order for emergency repairs for health or safety concerns, an order for repairs for the unit, site or property and an order authorizing the tenant to change the locks.

Both parties attended the hearing by conference call and gave undisputed evidence. The landlord submitted documentary evidence for which the tenant has acknowledged receiving. The tenant did not submit any documentary evidence. I accept the undisputed evidence of both parties and find that both parties have been properly served with the notice of hearing package and the submitted documentary evidence.

Issue(s) to be Decided

- Is the landlord entitled to an order of possession?
- Is the tenant entitled to an order cancelling the notice to end tenancy?
- Is the landlord entitled to a monetary order?
- Is the landlord entitled to retain the security deposit?
- Is the tenant entitled to an order for emergency repairs?
- Is the tenant entitled to an order for repairs?
- Is the tenant entitled to an order authorizing him to change the locks?

Background and Evidence

This tenancy began on March 1, 2014 on a fixed term tenancy for 1 year ending on February 28, 2015 as shown by the submitted copy of the signed tenancy agreement. The monthly rent is \$900.00 and a security deposit of \$450.00 was paid on February 22, 2014.

The landlord states that the tenant was served with a 10 day notice to end tenancy issued for unpaid rent dated June 3, 2014 by posting it to the rental unit door. The notice states that the tenant failed to pay rent of \$900.00 that was due on June 1, 2014. The notice displays an effective end of tenancy date of June 13, 2014.

At the outset of the hearing, the tenant stated in his direct testimony that he was in dispute with the landlord over the condition of the rental unit and did not pay the rent for June and July of 2014. The landlord confirmed that the tenant has not paid any rent since the notice was served as of the date of this hearing.

Both parties also confirmed that the tenant has already changed the locks to the rental unit without the permission of the landlord. As such no further action is required for this portion of the tenant's application.

Analysis

Both parties have confirmed that the landlord served the tenant with a 10 day notice to end tenancy issued for unpaid rent dated June 3, 2014. The tenant gave direct testimony that he has not paid any rent for June and July of 2014 as he is in dispute over the condition of the rental unit.

Section 26 of the Residential Tenancy Act states,

Rules about payment and non-payment of rent

26 (1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

The tenant having confirmed in his direct testimony that he withheld rent for June and July because of an ongoing dispute over repairs to the unit has failed to comply with

Section 26. The landlord has established grounds for an order of possession. The tenant failed to pay rent. The tenant's application to cancel the notice to end tenancy is dismissed. The landlord is granted an order of possession. 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.

As for the landlord's monetary claim, I find based upon the direct testimony of the tenant that no rent has been paid for June and July totalling, \$1,800.00 at \$900.00 per month. The landlord has established a claim for \$1,800.00 in unpaid rent.

As the tenancy is coming to an end, I decline to make any orders for the tenant regarding emergency repairs and repairs to the unit. These portions of the tenant's application are dismissed.

The landlord is also entitled to recovery of the \$50.00 filing fee. I order that the landlord retain the \$450.00 security deposit in partial satisfaction of the claim and I grant a monetary order under section 67 for the balance due of \$1,400.00. 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 is dismissed.

The landlord is granted an order of possession and a monetary order for \$1,400.00.

The landlord may retain the security deposit.

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 23, 2014

Residential Tenancy Branch

