



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Gateway Property Management Corporation
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPR, MNR, MND, MNDC, FF

Introduction

This hearing concerns the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / compensation for damage to the unit, site or property / compensation for damage or loss under the Act, Regulation or tenancy agreement / and recovery of the filing fee. Both parties attended and gave affirmed testimony.

Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement the tenancy began November 01, 2010. Rent is due and payable in advance on the first day of each month. Effective January 01, 2014 the rent became \$1,170.00. A security deposit of \$545.00 was collected. The landlord's agent testified that a move-in condition inspection report was completed.

By letter dated May 11, 2014, the tenants gave notice to end tenancy effective June 30, 2014. Subsequently, however, the tenants have not vacated the unit and no rent has been paid for July, August or September 2014.

The tenants acknowledged that they are "overholding," and claim they are actively in the process of moving out of the unit. During the hearing the landlord's agents requested that the tenants vacate the unit by no later than midnight, Friday, September 12, 2014.

Analysis

Section 55 of the Act addresses **Order of possession for the landlord**, in part:

55 (2) A landlord may request an order of possession of a rental unit in any of the following circumstances by making an application for dispute resolution:

(a) a notice to end the tenancy has been given by the tenant;

Based on the documentary evidence and testimony, pursuant to the tenants' letter of notice dated May 11, 2014, and in consideration of the statutory provision set out above, I find that the landlord has established entitlement to an **order of possession**. As to compensation, I find that the landlord has established a claim of **\$2,858.00**:

\$2,340.00: 2 x \$1,170.00 – *unpaid rent for July & August 2014*

\$468.00: *pro-rated rent from September 01-12, 2014*

\$50.00: *filing fee*

As the end of tenancy nears, the attention of the parties is drawn to section 38 of the Act which addresses **Return of security deposit and pet damage deposit**. As the tenants still have possession of the unit, the landlord's application for compensation for damage to the unit, site or property / and compensation for damage or loss under the Act, Regulation or tenancy agreement are hereby dismissed with leave to reapply.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenants. This order must be served on 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.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$2,858.00**. This order may be served on the tenants, filed in the Small Claims Court and enforced as an order of that Court.

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: September 09, 2014

Residential Tenancy Branch

