



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR / OPL / OPC
CNR

Introduction

This hearing concerns 2 applications: i) by the landlord for an order of possession, and ii) by the tenant for cancellation of a notice to end tenancy for unpaid rent. Both parties attended and / or were represented and gave affirmed testimony.

Issue(s) to be Decided

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

Background and Evidence

In response to an application by the tenant, a previous hearing was held on August 14, 2014, with a decision issued by date of August 15, 2014 (file # 822832). In short, the Arbitrator found that the tenant's application for an order instructing the landlord to comply with the Act, Regulation or tenancy agreement was premature, and the application was therefore dismissed.

The unit which is the subject of this dispute is 1 of what are 2 separate units located on the same parcel of property. There is no written tenancy agreement in evidence for the tenancy which was entered into approximately 12 to 15 months ago between this tenant and the former owner / landlord. Monthly rent is \$400.00. No security deposit or pet damage deposit was collected. The current owner / landlord purchased the property in June 2014.

Prior to sale of the property, it is understood that the former owner / landlord served the tenant with a 10 day notice to end tenancy for unpaid rent dated March 10, 2014.

Arising from rent of \$400.00 which was unpaid when due on August 01, 2014, the current owner / landlord issued a 10 day notice to end tenancy for unpaid rent dated September 07, 2014. The notice was served by way of being attached to a fence surrounding the unit. The date shown on the notice by when the tenant must vacate the

unit is September 17, 2014. Additional notations on the 10 day notice document that rent was also unpaid for June and July 2014. The tenant filed an application to dispute the notice on September 11, 2014, however, no further payments have been made toward rent and the tenant continues to reside in the unit with 1 other occupant, "GW," who also participated in this hearing.

During the hearing the parties undertook to resolve the dispute.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, forms and more can be accessed via the website: www.gov.bc.ca/landlordtenant

Section 63 of the Act addresses the **Opportunity to settle dispute**, and provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion led to a resolution and it was specifically agreed as follows:

RECORD OF SETTLEMENT

- that the landlord or the landlord's agent will attend the unit at **5:00 p.m. on Wednesday, November 05, 2014;**
- that at the time and place noted above, the tenant will pay the landlord or the landlord's agent the full amount of **\$2,800.00;**
- that the above amount reflects payment of rent for the **7 month period** of June, July, August, September, October, November and December 2014;
- that the above payment will be made by way of either **cash, certified cheque or bank draft made payable to the landlord as named in this decision;**
- that if the \$2,800.00 payment is not made in full at the time and place noted above, the tenant will be served with an **order of possession** effective not later than **1:00 p.m., Thursday, November 06, 2014;**
- that in the alternative, if the amount of **\$2,800.00** is paid in full at the time and place noted above, the tenant will be served with an **order of possession** effective not later than **1:00 p.m., Wednesday, December 31, 2014.**

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **1:00 p.m., Thursday, November 06, 2014**. This order must be served on the tenant. 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.

In the alternative, I also hereby issue an **order of possession** in favour of the landlord effective not later than **1:00 p.m., Wednesday, December 31, 2014**. This order must be served on the tenant. 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.

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: October 30, 2014

Residential Tenancy Branch

