



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, FF
CNR, CNC, OPT, PSF, RR

Introduction

This hearing concerns 2 applications: i) by the landlord for an order of possession for unpaid rent or utilities / a monetary order as compensation for unpaid rent or utilities / and recovery of the filing fee; and ii) by the tenant for cancellation of a notice to end tenancy for unpaid rent or utilities / cancellation of a notice to end tenancy for cause / an order of possession for the unit / an order instructing the landlord to provide services or facilities required by law / and permission to reduce rent for repairs, services or facilities agreed upon but not provided. Both parties attended and gave affirmed testimony.

Issue(s) to be Decided

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

Background and Evidence

Pursuant to a written tenancy agreement the tenancy began on November 01, 2013. Monthly rent of \$1,400.00 is due and payable in advance on the first day of each month. A security deposit of \$1,000.00 and a pet damage deposit of \$200.00 were collected.

The landlord issued 2 separate 10 day notices to end tenancy for unpaid rent or utilities. It appears that the first 10 day notice was served by way of posting to the unit door on December 22, 2014, however, the tenant claims that only page 1 of what is a 2 page notice was actually served. The tenant filed an application to dispute the notice on December 26, 2014.

The second 10 day notice was served and dated December 30, 2014. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is December 30, 2014. The total amount of rent shown on the notice as unpaid is \$2,100.00, and the parties agree that this is comprised as follows: \$700.00 for November and \$1,400.00 for December 2014. The amount of unpaid

utilities is shown as \$1,000.00. Subsequently, the tenant has made no further payment toward rent and she continues to reside in the unit.

During the hearing the landlord reiterated that he seeks an order of possession on the basis of unpaid rent, which is outstanding not only for November & December 2014, but also for January 2015. However, the landlord withdrew his application for compensation reflecting any utilities that may still be outstanding. The tenant testified that it is her intention to vacate the unit by not later than January 31, 2015. During the hearing the parties also agreed that the landlord would retain the tenant's security deposit and pet damage deposit, in order to offset any entitlement established by the landlord to compensation for unpaid rent and recovery of the filing fee.

Analysis

Based on the documentary evidence and testimony, I find that the tenant was served with 2 separate 10 day notices to end tenancy for unpaid rent or utilities. While the tenant filed an application to dispute the notice(s), the tenant does not dispute that she subsequently made no further payment toward rent after issuance of the notices. Accordingly, I find that the landlord has established entitlement to an **order of possession**.

As to compensation, I find that the landlord has established entitlement to a claim of **\$3,550.00**, as follows:

\$700.00: *unpaid rent November 2014*
\$1,400.00: *unpaid rent December 2014*
\$1,400.00: *unpaid rent January 2015*
\$50.00: *filing fee*

Section 72 of the Act addresses **Director's orders: fees and monetary orders**, and provides in part:

72(2) If the director orders a party to a dispute resolution proceeding to pay any amount to the other, including an amount under subsection (1), the amount may be deducted

(b) in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.

Following from all of the above I order that the landlord retain the security deposit and pet damage deposit in the combined total amount of \$1,200.00 (\$1,000.00 + \$200.00), and I grant the landlord a **monetary order** for the balance owed of **\$2,350.00** (\$3,550.00 - \$1,200.00).

In light of all of the above, the tenant's application for cancellation of a notice to end tenancy for unpaid rent or utilities is hereby dismissed. As there is no evidence of the landlord's having issued a 1 month notice to end tenancy for cause, the tenant's application for cancellation of such a notice is also hereby dismissed. Further, the tenant's application for an order of possession for the unit is also dismissed.

In the absence of sufficient evidence that the tenant raised any concerns with the landlord during the term of her tenancy about allegedly inadequate heat or miscellaneous deficiencies in the unit, or sufficient evidence that such problems exist, the tenant's application for an order instructing the landlord to provide services or facilities required by law is dismissed, as is the tenant's application to reduce rent for repairs, services or facilities agreed upon but not provided. The tenant has not applied to recover the filing fee for her application.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **January 31, 2015**. 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.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$2,350.00**. This order may be served on the tenant, 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: January 21, 2015

Residential Tenancy Branch

