



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding REMAX LITTLE OAK REALTY LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent, pursuant to section 67;
- authorization to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenants, pursuant to section 72.

The landlord's agent ("landlord") and the tenant KB ("tenant") attended the hearing and were each given a full opportunity to be heard, to present their sworn testimony, to make submissions and to call witnesses.

The landlord confirmed that he is the owner of the landlord company named in this application and that he has the authority to represent the landlord company as agent at this hearing. The tenant confirmed that she was also appearing as agent for the other tenant, BB, who is her husband, at this hearing.

The landlord testified that he served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent, dated November 18, 2014 ("10 Day Notice"), on the same date, by way of posting it to their rental unit door. The tenant confirmed receipt of the 10 Day Notice, on behalf of both tenants. In accordance with sections 88 and 90 of the Act, I find that the tenants were duly served with the landlord's 10 Day Notice. The landlord did not provide this 10 Day Notice with his application, so I requested that he provide me with a copy, via facsimile, after the hearing. I received a copy of the 10 Day Notice from the landlord, prior to writing this decision.

The landlord testified that he served the tenants with his application for dispute resolution hearing package ("Application"), by way of registered mail on December 16, 2014. The tenant confirmed receipt of the Application on behalf of both tenants. In accordance with sections 89 and 90 of the Act, I find that the tenants were duly served with the landlord's Application.

Issues to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

Is the landlord entitled to a monetary award for unpaid rent?

Is the landlord entitled to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary award requested?

Is the landlord entitled to recover the filing fee for this application from the tenants?

Background and Evidence

The landlord testified that this tenancy began on June 1, 2014 for a fixed term of one year, after which it would revert to a month to month tenancy. Monthly rent in the amount of \$1,250.00 is payable on the first day of each month. A security deposit of \$625.00 was paid by the tenants on May 30, 2014, and the landlord continues to retain this deposit. A written tenancy agreement governs this tenancy.

The landlord testified that the 10 Day Notice was for \$1,250.00 in unpaid rent due on November 1, 2014. The landlord stated that the tenants owe \$475.00 in unpaid rent for November 2014, \$1,250.00 in unpaid rent for December 2014 and \$1,250.00 for unpaid rent for January 2015. The tenant testified that she does not dispute that both tenants owe the above outstanding rent amounts, as stated by the landlord.

Analysis

Pursuant to section 56 of the Act, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding settlement of all issues currently under dispute at this time:

1. Both parties agreed that this tenancy will end pursuant to a 2 day Order of Possession, if the tenants default on any rent payments according to the below schedule;
2. The tenants agreed to pay the landlord the following amounts according to the following schedule:
 - a. \$475.00 for November 2014 rent by January 23, 2015;
 - b. A total of \$1,300.00 (\$1,250.00 for December 2014 rent and \$50.00 for the landlord's filing fee for this application), by February 6, 2015;
 - c. \$1,250.00 for January 2015 rent by February 20, 2015;
 - d. \$1,250.00 for February 2015 rent by March 6, 2015;
 - e. \$1,250.00 for March 2015 rent by March 20, 2015;
 - f. \$1,250.00 for April 2015 rent by April 3, 2015.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties. Verbal affirmation was received from both parties that they agreed to the above settlement terms.

Conclusion

As advised to both parties during the hearing, to give effect to the settlement reached between the parties, I issue the attached two day Order of Possession to be used by the landlord **only** if the tenants do not abide by the terms of their monetary agreement as outlined above. This two day **Order of Possession expires on April 30, 2015**. I advised the landlord that the Order of Possession cannot be served upon the tenants after **April 30, 2015**, as that is the last month for the monetary agreement outlined above. The landlord is provided with this Order in the above terms and the tenants must be served with this Order in the event that the tenants do not abide by the terms of their monetary agreement as outlined above. Should the tenants fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

In order to implement the above settlement reached between the parties, I issue a monetary Order in the landlord's favour in the amount of \$3,025.00, the amount currently owing from this tenancy from November 2014 to January 2015, as per the above agreement terms 2(a), (b) and (c). **This monetary order cannot be served upon the tenant(s) if the tenants have complied with terms 2(a), (b) and (c) of the above-noted settlement agreement.** I deliver this Order to the landlord in support of the

above agreement for use **only** in the event that the tenants do not abide by the terms of the above monetary settlement **by February 20, 2015**. Should the tenants fail to abide by the remainder of the monetary terms 2(d)(e) or (f) of the above agreement, the landlord is at liberty to apply for a new monetary award in satisfaction of amounts that would then have become owing from this tenancy. The landlord is provided with this Order in the above terms and the tenant(s) must be served with a copy of this Order as soon as possible after a failure to comply with the terms of the above monetary settlement. Should the tenant(s) fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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

