



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Brizan Development Inc.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MT CNR MNSD OLC LRE OPR MNR MNSD MNDC FF

Introduction

This hearing dealt with applications by the tenants and the landlord. The tenants applied to cancel a notice to end tenancy, as well as for an order that the landlord comply with the Act, an order for recovery of the security deposit and an order suspending or setting conditions on the landlord's right to enter the rental unit. The landlord applied for an order of possession and monetary compensation for unpaid rent. The tenants and the landlord participated in the teleconference hearing.

The parties were given full opportunity to give affirmed testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

The landlord and the tenants reached a settlement regarding the end of tenancy, as follows.

Settlement Agreement

During the hearing, the parties agreed to the following:

- 1) the tenants agree to withdraw their application to cancel the notice to end tenancy;
- 2) the landlord agrees to withdraw the notice to end tenancy and their application for an order of possession; and
- 3) the tenancy will end on January 31, 2015.

Preliminary Issues

During the hearing the tenants requested an adjournment in order to obtain information from their bank regarding payment of the rent. Based on the circumstances I determined it was appropriate to hear the evidence regarding the landlord's monetary claim, and I declined to grant an adjournment.

In the hearing the tenants indicated that they had applied for monetary compensation of \$1200, the amount of one month's rent. The tenants' application indicates that they were claiming \$700; however, they indicated that they were claiming recovery of the security deposit, and no other monetary compensation. I found that the tenants had not sufficiently specified a monetary claim for \$1200, and I did not consider a tenants' claim for monetary compensation.

Issues to be Decided

Is the landlord entitled to monetary compensation as claimed?
Should the landlord be ordered to comply with the Act?
Should the Landlord's right to enter the rental unit be restricted?

Background and Evidence

Landlord's Application

The landlord stated that they received no rent, via email money transfer or otherwise, for December 2014 or January 2015 rent. The landlord has claimed \$2400 for the two months of outstanding rent.

The tenants stated that on December 30, 2014 they sent the landlord the rent for December 2014 and January 2015 via interac email money transfer. The tenants stated that they are currently investigating whether there was an error in the transfer.

Tenants' Application

The tenants stated that the landlord failed to comply with the Act because they failed to deposit the rent that the tenants sent and they failed to communicate with the tenants about the issue of the money transfer. The tenants stated that they had a written agreement that the landlord would allow the tenancy to continue but then the landlord issued a notice to end tenancy. The tenants stated that this was very stressful and has resulted in the end of their tenancy.

The landlord replied that they never received any e-transfer, and if they had received it they would have deposited it. The landlord submitted emails between the landlord and the tenants. In an email from the tenants dated December 22, 2014, the tenants wrote: "You have every right to file that notice." The landlord stated, and her emails confirm, that she was in regular contact with the tenants about the outstanding rent and the notice to end tenancy.

Analysis

I am satisfied that the landlord did not receive rent for December 2014 and January 2015. The tenants verified that they are currently investigating whether there was an error in the transfer. I grant the landlord a monetary order for the outstanding rent of \$2400.

I find that it is not necessary to issue an order that the landlord comply with the Act, as I find no evidence to show that the landlord has failed to comply with the Act. The landlord's evidence shows that they were cooperative and communicative with the tenants regarding the payment of rent.

I further find that it is not necessary to issue an order suspending the landlord's right to enter the rental unit, as I did not hear sufficient evidence to support such an order.

As the landlord's application was successful, they are entitled to recovery of the \$50 filing fee for the cost of their application.

Conclusion

I grant the landlord an order of possession effective January 31, 2015. The tenants must be served with the order of possession. 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.

I grant the landlord an order under section 67 for the balance due of \$2450. This order may be filed in the Small Claims Court and enforced as an order of that Court.

The portions of both applications regarding the security deposit are dismissed with leave to reapply.

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 19, 2015

Residential Tenancy Branch

