



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ARGUS PROPERTIES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPB, MNR, MNSD, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent, to recover the filing fee for this proceeding and to keep the Tenant's security deposit in partial payment of those amounts.

The Landlord said she served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on January 13, 2015. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

Issues(s) to be Decided

1. Is the Landlord entitled to an order of Possession?
2. Are there rent arrears and if so, how much?
3. Is the Landlord entitled to compensation for unpaid rent and if so how much?
4. Is the Landlord entitled to keep the Tenant's security deposit?

Background and Evidence

This tenancy started on October 6, 2014 as a 1 year fixed term tenancy with an expiry date of October 31, 2015. Rent is \$850.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$425.00 on October 6, 2014.

The Landlord said that the Tenant gave notice to end the tenancy on November 28, 2014 to end the tenancy December 31, 2014. The Landlord accepted the notice and charged the Tenant the liquidated damages fee as written into the tenancy agreement. The Tenant agreed to the fee of \$850.00 and the Tenant paid the fee. The Landlord said the Tenant moved out of the rental unit on December 31, 2014 as agreed. The Landlord continued to say the Tenant and the Landlord had an agreement for an occupant to stay in the rental unit during the tenancy as per the "Additional Occupant Permission Letter" signed by the Tenant, the Occupant and the Landlord dated October 6, 2014. The Landlord said the occupant has not vacated the rental unit and as a result

the Landlord is requesting the January, 2015 rent of \$850.00 and an Order of Possession as the occupant is overholding in the rental unit.

As well the Landlord requested to retain the Tenant's security deposit as partial payment of unpaid rent and to recover the filing fee of \$50.00 from the Tenant.

Analysis

The "Additional Occupant Permission Letter" states that the occupant is subject to all the rules and regulations of the tenancy agreement and that the Tenant is responsible for the Occupant's actions in regard to the tenancy, including financial responsibilities and eviction proceedings. The permission letter is signed by the Tenant, the Occupant and the Landlord. I accept the "Additional Occupant Permission Letter" as an addendum to the tenancy agreement and as such I accept the Landlord's testimony that the Tenant is fully responsible for the Occupant's actions in regard to the tenancy.

Section 57 of the Act says a tenant that continues to occupy the rental unit after the tenancy is over is an overholding tenant and the landlord can seek compensation for the time the tenant continues to occupy the rental unit. I find the Tenant is overholding in the rental unit because the Occupant has not moved out of the rental unit. The Tenant is responsible to deliver vacant possession of the rental unit at the end of a tenancy.

As I have accepted the Tenant is responsible for the tenancy agreement and the Occupant's actions in regard to the tenancy I find the Tenant is responsible for the Occupant's overholding in the rental unit. Consequently I find the Landlord has established grounds for their monetary claim of \$850.00 for the January, 2015 rent. I award the Landlord \$850.00 for the Occupant overholding in the rental unit for January, 2015.

In addition I find the Tenant and the Landlord agreed to end the tenancy on December 31, 2014, therefore the Landlord has established grounds for an Order of Possession with an effective vacancy date of 2 days after service on both the Tenant and the Occupant.

As the Landlord has been successful in this matter, she is also entitled to recover from the Tenant the \$50.00 filing fee for this proceeding. I order the Landlord pursuant to s. 38(4) and s. 72 of the Act to keep the Tenant's security deposit in partial payment of the unpaid rent. The Landlord will receive a monetary order for the balance owing as following:

	Unpaid rent:	\$850.00	
	Recover filing fee	\$ 50.00	
	Subtotal:		\$900.00
Less:	Security Deposit	\$425.00	
	Subtotal:		\$425.00
	Balance Owing		\$475.00

Conclusion

An Order of Possession effective 2 days after service of it on the Tenant and Occupant and a Monetary Order in the amount of \$475.00 have been issued to the Landlord. A copy of the Orders must be served on the Tenant and Occupant: the Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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: February 03, 2015

Residential Tenancy Branch

