



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HOMELIFE GLENAYRE REALTY CHILLIWACK LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: MNR OPR FF

Introduction:

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for orders as follows:

- a) A monetary order pursuant to Section 67; and
- d) An order to recover the filing fee pursuant to Section 72.

SERVICE:

The landlord did not attend but the tenant agreed they received the Notice to end Tenancy dated January 29, 2015 and the Application for Dispute Resolution by courier. I find that the tenant was properly served with the documents according to sections 88 and 89 of the Act.

Issue(s) to be Decided:

The tenant was issued a Notice to End Tenancy dated January 29, 2015 for unpaid rent and the landlord received an Order of Possession at a prior hearing on February 26, 2015.. Is the landlord now entitled to a Monetary Order for rental arrears and filing fee?

Background and Evidence:

The landlord did not attend to support their application. The tenant attended and gave a brief summary of the complicated situation between the parties. A Decision dated January 19, 2015 found the rent was \$1700 a month and the landlord was ordered to do certain work on the property. The Notice to End Tenancy was not upheld because it was not in the approved form as required by section 52 of the Act. The tenant said this decision is being challenged through Judicial Review and it is to be heard soon. In a second Decision dated February 26, 2015 the parties settled on the landlord obtaining an Order of Possession effective March 15, 2015 but did not settle on the amount owing for rent as they hoped this could be resolved in this hearing and it also may be dependent on the Review by the Supreme Court. The tenant said she has also applied for Judicial Review of this second Decision.

The landlord claims \$6,000 in rent arrears on this Application. The tenant denies owing this amount and hopes to be successful at Judicial Review in overturning the Decision that found she owed this amount.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis

The landlord/applicant did not attend to support the application, possibly because the rental amount is part of the matter before the Supreme Court for Judicial Review. I find insufficient evidence to establish the amount owed by the tenant as the monthly rental amount is being reviewed by the Supreme Court.

Conclusion:

I dismiss this application of the landlord and give them leave to reapply within the legislated time limits.

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: March 11, 2015

Residential Tenancy Branch

