



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPER, OPB, MNR, MNSD, MNDC, 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 and breach of a material term pursuant to section 55;
- a monetary order for unpaid rent, and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

The tenant BU (the tenant), the landlord and the landlord's agent appeared. The landlord's agent is an employee of a commercial eviction service.

Preliminary Issue – Service of Dispute Resolution Package

The landlord served the tenants by registered mail at the address associated with the rental unit. I was provided with Canada Post tracking numbers for these mailings.

The tenant testified that the tenant JP has never resided at the rental unit. I accept that the tenant JP does not reside at the rental unit.

On the basis of this evidence, I am satisfied that the tenant was served with notice of this application pursuant to sections 89 and 90 of the Act; however, I find that the tenant JP was not served with the dispute resolution package as it was not sent to the address at which he resides.

As such, the landlord's application as against the tenant JP is dismissed with leave to reapply.

Preliminary Issue – Landlord's Amendment to Application

At the hearing the landlord's agent advised me that the landlord wished to amend his application to withdraw the claim for unpaid utilities. As there is no prejudice to the tenant, I allowed this amendment.

Analysis

Pursuant to section 63 of the Act, an 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.

During this hearing, the parties reached an agreement to settle their dispute under the following final and binding terms:

1. The landlord agreed to withdraw his application.
2. The landlord agreed to withdraw the 10 Day Notice.
3. The tenant agreed to pay \$2,100.00 to the landlord:
 - a. \$1,000.00 to be paid on or before 1159 on 22 April 2015; and
 - b. a further \$1,100.00 to be paid in accordance with a payment schedule to be agreed to by the parties.
4. The tenant agreed that the landlord could retain her security deposit.
5. The tenant agreed to provide possession of the rental unit to the landlord on or before one o'clock in the afternoon on 1 May 2015.

The parties agreed that these particulars comprise the full and final settlement of all aspects of the landlord's claim for both parties.

Conclusion

The landlord's application is withdrawn. The landlord's 10 Day Notice is cancelled. The landlord is entitled to retain the tenant's security deposit.

The monetary orders are to be used if the tenant does not pay the agreed to sums to the landlord. The landlord is provided with these orders in the above terms and the landlord should serve the tenant with these orders so that he may enforce them in the event that the tenant does not pay the outstanding rent as set out in their agreement. Should the tenant fail to comply with these orders, these orders may be filed in the Small Claims Division of the Provincial Court and enforced as orders of that Court.

The attached order of possession is to be used by the landlord if the tenant does not vacate the rental premises in accordance with their agreement. The landlord is provided with this order in the above terms and the landlord should serve the tenant with this order so that it may enforce it in the event that the tenant does not vacate the premises by the time and date set out in their agreement. Should the tenant fail to comply with this order, this order may be filed and enforced as an order of the Supreme Court of British Columbia.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under subsection 9.1(1) of the Act.

Dated: April 22, 2015

Residential Tenancy Branch

