



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OPR, MNR, MNDC, MNSD, FF

Introduction

This hearing dealt with applications from both the landlords and the tenant under the *Residential Tenancy Act* ("the *Act*"). The tenant applied, naming only one landlord, under section 46 of the *Act* to cancel the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the "10 Day Notice").

The landlord applied for an Order of Possession for unpaid rent pursuant to section 55; a monetary order for unpaid rent, damage or loss 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 the filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing and were given an opportunity to be heard, to present sworn testimony and to make submissions. The landlord testified that the 10 Day Notice was served to the tenant by registered mail on March 2, 2015. The tenant confirmed receipt and, based on that confirmation, I find the tenant duly served with the 10 Day Notice. Based on the testimony of both parties confirming receipt of the other's Application for Dispute Resolution package and associated evidence, I accept that both parties were duly served with the other's dispute resolution packages. Before the conclusion of this hearing, the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Background and Evidence

This 9 month fixed term tenancy began on October 1, 2014. The rental amount of \$1500.00 was payable on the first of each month. The landlord testified that he continues to hold a \$750.00 security deposit paid by the tenant on September 14, 2014. A cheque provided for the pet damage deposit was returned insufficient funds to the

landlord. The tenant testified that, while she continues to reside in the rental unit as of the date of this hearing, she is prepared to vacate the unit as of May 1, 2015.

The landlord provided undisputed testimony and evidence that the tenant has not paid rent in full for the previous several months including; October 2014; November 2014; January 2015; February 2015; March 2015; April 2015. The landlord testified that, in December, the tenant made two payments totalling \$1500.00 to pay December 2014 rent. According to the accounting submitted by the landlord, the tenant owes the following rental arrears;

Item	Amount
Unpaid Rent – October 2014	\$1500.00
Unpaid Rent – November 2014	1500.00
Unpaid Rent – January 2015	1500.00
Unpaid Rent – February 2015	1500.00
Unpaid Rent – March 2015	1500.00
Total Rental Arrears claimed by Landlord	\$7500.00

The tenant testified that she does not dispute these rental amounts remain unpaid. The tenant also testified that she is responsible for outstanding utilities in the amount of \$1704.21, providing a total outstanding amount acknowledged as owing by the tenant to the landlord of **\$9204.21**.

The tenant initially applied for cancellation of the 10 Day Notice to End Tenancy. The tenant withdrew this application, agreeing to vacate the residence as of May 1, 2015.

The landlord conceded that, in the tenant's circumstances (facing a serious health matter), they are prepared to accept monthly payments on an amount based on the tenant's ability to pay over the next year.

Analysis

Pursuant to section 63 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. Given the agreement reached between the parties during the proceedings, I find that the parties have settled their dispute and the following records this settlement as a decision:

The Parties mutually agreed as follows:

1. The tenant agreed to pay to the landlord the outstanding rental amount of \$9204.21 to the landlord on or before July 1, 2016.
2. The tenant agreed to vacate the rental unit on or before May 1, 2015 at 4:00 p.m.
3. The parties agree to address the tenant's security deposit in compliance with the *Act*, within 15 days of the later of the following two actions: the tenant vacating the residence or the tenant providing a forwarding address.
4. These terms comprise the full and final settlement of all aspects of this dispute for both parties.

Conclusion

To give effect to the settlement reached between the parties and as discussed at the hearing, I issue the attached Order of Possession to be used by the landlord **only** if the tenant fails to vacate the rental premises by May 1, 2015, in accordance with their agreement. The landlord is provided with this Order in the above terms and the tenant(s) must be served with this Order in the event that the tenant(s) do not vacate the premises in accordance with their agreement. 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.

To give effect to the settlement reached between these parties, I issue a monetary order in favor of the landlord in the amount of \$9204.21 dated July 1, 2016, to be used only if the tenant fails to pay the amounts outstanding on or before this date. The landlord is provided with this Order in the above terms and the tenant(s) must be served with this Order as soon as possible after any failure to abide by the monetary terms of their settlement agreement. Should the tenant(s) 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.

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: April 24, 2015

Residential Tenancy Branch

