



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNSD, FF / CNR

Introduction

This hearing concerns 2 applications:

- i) by the landlord for an order of possession for unpaid rent / retention of the security deposit / and recovery of the filing fee; and
- ii) by the tenant for cancellation of a notice to end tenancy for unpaid rent.

Both parties attended and gave affirmed testimony.

Issue(s) to be Decided

Whether either party is entitled to any of the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement the tenancy began on June 01, 2012. Monthly rent is due and payable in advance on the first day of each month. While the tenancy agreement provides that monthly rent is \$920.00, the landlord testified that effective from approximately 8 months ago the rent was reduced by \$20.00 to \$900.00 per month. A security deposit of \$460.00 was collected.

Arising from rent which remained unpaid for January, February, March and April 2015, the landlord issued a 10 day notice to end tenancy for unpaid rent dated April 09, 2015. The notice was served by way of posting on the unit door on that same date, as well as by registered mail. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is April 19, 2015. Subsequently, the tenant filed an application to dispute the notice on April 17, 2015, however, she has made no further payment toward rent and she continues to reside in the unit. The landlord's application for dispute resolution was filed on April 21, 2015.

Evidence submitted by the landlord includes copies of receipts for rent paid in 2014, variously, for the unit which is the subject of this dispute and another unit in the building. There are no receipts in evidence before me for rent paid in 2015 for any unit.

Analysis

Section 26 of the Act addresses **Rules about payment and non-payment of rent**, in part:

26(1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

Based on the documentary evidence and testimony, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated April 09, 2015. While the tenant filed an application to dispute the notice within 5 days of receiving it, I find that the tenant made no further payment toward rent after service of the notice. I further find no evidence that the tenant has a right under the Act to deduct all or a portion of the rent. In the result, the tenant's application is hereby dismissed, and I find that the landlord has established entitlement to an **order of possession**.

As to compensation, I find that the landlord has established a claim of **\$5,000.00**:

\$900.00: *unpaid rent January 2015*
\$900.00: *unpaid rent February 2015*
\$900.00: *unpaid rent March 2015*
\$900.00: *unpaid rent April 2015*
\$900.00: *unpaid rent May 2015*
\$450.00: *unpaid rent for the period June 01 to 15, 2015*
\$50.00: *filing fee*

I order that the landlord retain the tenant's security deposit of **\$460.00**, and I grant the landlord a **monetary order** for the balance owed of **\$4,540.00** (\$5,000.00 - \$460.00).

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenant. This order must be served on the tenant.

Should the tenant 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.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$4,540.00**. This order may be served on the tenant, filed in the Small Claims Court and enforced as an order 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: June 02, 2015

Residential Tenancy Branch

