



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, MNDC, MNSD, FF
CNR, OLC, ERP, RP, PSF, RR

Introduction

This hearing concerns 2 applications:

- i) by the landlord for an order of possession / a monetary order as compensation for unpaid rent or utilities / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of the security deposit / and recovery of the filing fee; and
- ii) by the tenants for cancellation of a notice to end tenancy for unpaid rent or utilities / an order instructing the landlord to comply with the Act, Regulation or tenancy agreement / an order instructing the landlord to make emergency repairs for health or safety reasons / an order instructing the landlord to make repairs to the unit, site or property / an order instructing the landlord to provide services or facilities required by law / and permission to reduce rent for repairs, services or facilities agreed upon but not provided.

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

The unit which is the subject of this dispute is located in the basement portion of a house. Other renters occupy the upstairs portion of the house.

Pursuant to a written tenancy agreement tenancy began on June 01, 2015. Monthly rent of \$925.00 is due in advance on the first day of each month, and a security deposit of \$462.50 was collected. A move-in condition inspection report was not completed.

Arising from rent which remained unpaid for June and July 2015, the landlord issued a 10 day notice to end tenancy for unpaid rent or utilities dated July 19, 2015. The notice was personally served on that same date. A copy of the notice was submitted in evidence. The date shown by when the tenants must vacate the unit is July 27, 2015. Subsequently, the tenants made no further payments and they still reside in the unit.

The tenants claim there are a number of deficiencies with the unit which include, but are not limited to, inadequate heat, improper smoke detector, insufficient number of plug outlets, damaged bathroom vanity, stained ceiling(s), peeling paint and so on.

The tenants filed an application for dispute resolution on July 23, 2015. The landlord's application was filed on July 30, 2015.

Analysis

Based on the documentary evidence and testimony of the parties, the various aspects of the respective applications and my related findings are set out below.

LANDLORD

Order of possession

I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent dated July 19, 2015. While the tenants filed an application to dispute the notice on July 23, 2015, which is within the 5 day statutory period available for doing so, the tenants have made no further payment toward rent.

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.

Following from the above, and in the absence of evidence that the tenants have a right under the Act to deduct all or a portion of the rent, I find that the landlord has established entitlement to **an order of possession**.

\$3,700.00 (4 x \$925.00): *unpaid rent for June, July, August & September 2015*

Pursuant to the findings set out immediately above, I find that the landlord has established entitlement to the full amount of unpaid rent claimed.

\$500.00: *unpaid utilities*

In the absence of any related documentary evidence in support of this aspect of the application, it is hereby dismissed with leave to reapply.

\$50.00: *filing fee*

As the landlord has succeeded with the principal aspects of his application, I find that he has also established entitlement to recovery of the filing fee.

Total entitlement: \$3,750.00 (\$3,700.00 + \$50.00).

I order that the landlord retain the security deposit of **\$462.50**, and I grant the landlord a **monetary order** for the balance owed of **\$3,287.50** (\$3,750.00 - \$462.50).

TENANTS

Cancellation of a notice to end tenancy for unpaid rent or utilities

As I have found that the landlord has established entitlement to an order of possession on the basis of unpaid rent, as set out above, the tenants' application for cancellation of a notice to end tenancy for unpaid rent or utilities is hereby dismissed.

Various orders to be issued against the landlord

As the tenancy is ending pursuant to the order of possession issued in favour of the landlord, as above, and as there is insufficient evidence to enable me to find that certain orders must be issued against the landlord, the tenants' application for various orders to be issued is hereby dismissed.

Reduction in rent for repairs, services or facilities agreed upon but not provided

Section 32 of the Act addresses **Landlord and tenant obligations to repair and maintain**, in part:

32(1) A landlord must provide and maintain residential property in a state of decoration and repair that

- (a) complies with the health, safety and housing standards required by law, and
- (b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

(5) A landlord's obligations under subsection 1(a) apply whether or not a tenant knew of a breach by the landlord of that subsection at the time of entering into the tenancy agreement.

Similar to the reasons set out immediately above, I find that the tenants have failed to meet the burden of proving entitlement to a reduction in rent for the reasons sought. Accordingly, this aspect of the application is hereby dismissed.

Conclusion

The tenants' application is hereby dismissed in its entirety.

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenants. This order must be served on the tenants. Should the tenants 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 **\$3,287.50**. Should it be necessary, this order may be served on the tenants, 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: September 30, 2015

Residential Tenancy Branch

