



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD

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 pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- 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.

Both parties attended the hearing by conference call and gave undisputed testimony. The tenant confirmed in his direct testimony that he received the landlord's notice of hearing package and the submitted documentary evidence. The tenant also confirmed that he did not submit any documentary evidence.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to a monetary order for unpaid rent and to retain all or part of the security deposit?

Background and Evidence

This tenancy started on March 1, 2014 on a month-to-month basis as shown by the submitted copy of the signed tenancy agreement dated February 11, 2014. The monthly rent is \$720.00 payable on the 1st day of each month and a security deposit of \$360.00 was paid on February 14, 2014.

The landlord stated that the tenant was served with the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated May 6, 2015.

The 10 Day Notice stated that the tenant failed to pay rent of \$1,659.00 that was due on May 1, 2015 and displays an effective end of tenancy date of May 16, 2015.

The landlord clarified that this was made up of arrears owing of \$299.00 for December 2014, \$120.00 for February 2015, \$520.00 for March 2015 and \$420.00 for May 2015.

The landlord seeks an order of possession and a monetary order for unpaid rent as the tenant still occupies the rental premises for use and occupancy only. The tenant stated that he had been making full rental payments with additional amounts to offset the owed rental arrears.

During the hearing both parties entered into discussions in the hopes of a settlement by which a mutual agreement to end the tenancy could be achieved, while addressing the landlords' concerns.

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. Both parties agreed that the tenant currently owed \$1,588.00 in rental arrears as of the date of the hearing. The landlord is granted a monetary order for \$1,588.00.
2. The tenant agreed that the landlord may be granted an order of possession that would be effective within 2 days after being served if the tenant failed to continue to pay rent on time with the additional overpayments until the balance is paid by January 31, 2016.
3. The order of possession would not be effective past January 31, 2016.

The parties agreed that these particulars comprise the full and final settlement of all aspects of their disputes for both parties.

Conclusion

The landlord's application is withdrawn. The landlord's 10 Day Notice dated May 6, 2015 is cancelled.

The landlord is granted a monetary order for \$1,588.00.

The attached order of possession and monetary order are to be used by the landlord if the tenant does not comply with their agreement. The landlord is provided with this order in the above terms and the landlord should serve the tenant with this order in the event that the tenant does comply with the terms laid 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 Section 9.1(1) of the *Residential Tenancy Act*.

Dated: October 06, 2015

Residential Tenancy Branch

