



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding RED DOOR HOUSING SUNRISE TERRACE
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, MNSD, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for cause pursuant to section 55;
- 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 a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The tenant's mother acted as the tenant's agent in this matter and gave sworn testimony that she was fully authorized to act on the tenant's behalf. She confirmed that the tenant received the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) posted on the tenant's door on July 30, 2015. The tenant's agent also confirmed that the tenant received a copy of the landlord's dispute resolution hearing package sent by the landlord by registered mail on September 14, 2015, as well as landlord's written evidence. I am satisfied that the landlord duly served the above documents to the tenant in accordance with sections 88 and 89 of the *Act*.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for cause? Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

On January 8, 2009, the parties signed a periodic rent geared to income tenancy agreement for a tenancy that began on February 1, 2009. The tenant currently pays \$595.00 monthly towards the monthly economic rent of \$1,439.00, payable in advance

on the first of each month. The landlord continues to hold the tenant's \$720.00 security deposit paid on January 8, 2009.

The landlord asked for authorization to retain \$453.59, from the tenant's security deposit, an amount that the parties agreed remained outstanding from a bill for damage to the toilet in the bathroom of this rental unit and associated plumbing costs. As the tenant had failed a number of times to comply with the terms of a written agreement between the parties in which she committed to pay these costs in periodic instalments, the landlord issued a 1 Month Notice for the breach of a material term of the tenancy agreement that had not been corrected within a reasonable time after having received written notice to do so.

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. 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.

Both parties agreed to the following final and binding terms to resolve this dispute:

1. The tenant or the tenant's agent agreed to pay \$226.80 in cash to the landlord by 12:00 p.m. on Thursday, November 19, 2015.
2. The tenant or the tenant's agent agreed to pay the remaining \$226.79 in cash to the landlord by 12:00 p.m. on Thursday, November 26, 2015.
3. The landlord agreed to withdraw the 1 Month Notice of July 30, 2015, in the event that the tenant or the tenant's agent comply with the monetary commitments as outlined above in full.
4. In the event that the tenant or the tenant's agent do not abide the monetary provisions of this agreement as outlined above, the parties agreed that this tenancy will end by 1:00 p.m. on November 30, 2015, by which time the tenant will have vacated the rental premises.
5. Both parties agreed that the terms of this settlement agreement constituted a final and binding resolution of all issues identified in the landlord's application and arising out of this tenancy at this time.

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 or the tenant's agent do not comply with the monetary terms of their agreement

and fails to vacate the rental premises in accordance with their agreement. The landlord is provided with these Orders in the above terms and the tenant must be served with this Order in the event that the tenant does not vacate the premises in accordance with their agreement. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

In order to implement the above settlement reached between the parties, I issue a monetary Order in the landlord's favour in the amount of \$453.59. I deliver this Order to the landlord in support of the above agreement for use **only** in the event that the tenant or the tenant's agent do not abide by the terms of the above settlement. The landlord is provided with these Orders in the above terms and the tenant must be served with a copy of these Orders as soon as possible after a failure to comply with the terms of the above settlement 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.

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: November 13, 2015

Residential Tenancy Branch

