



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPL, MNR

Introduction

This hearing was convened in response to the Landlords' Application for Dispute Resolution, in which the Landlords applied for an Order of Possession and a monetary Order for unpaid rent.

The Landlord stated that on January 08, 2016 the Application for Dispute Resolution and the Notice of Hearing were placed in the Tenant's mail box. The Tenant acknowledged receiving these documents on January 08, 2016.

On January 19, 2016 the Landlords submitted six pages of evidence to the Residential Tenancy Branch, which included the first page of a Monetary Order Worksheet. The Landlord stated that this evidence was placed in the Tenant's mail box on January 10, 2016. The Tenant stated that she received these documents, with the exception of the first page of a Monetary Order Worksheet, on January 09, 2016. The documents the Tenant acknowledged receiving were accepted as evidence for these proceedings.

I do not consider the Monetary Order Worksheet to be "evidence". It is something the Landlord can introduce orally at the hearing and I am satisfied I can proceed with this hearing without the benefit of that document.

The parties were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions.

Issue(s) to be Decided

Are the Landlords entitled to an Order of Possession and to a monetary Order for unpaid rent?

Background and Evidence

The Landlords and the Tenant agree that:

- this tenancy began on June 29, 2014;

- on May 01, 2015 the rent was reduced to \$375.00 per month;
- rent was due by the first day of each month;
- a Two Month Notice to End Tenancy for Landlord's Use of Property was personally served to the Tenant on September 29, 2015;
- the Two Month Notice to End Tenancy declared that the Tenant must vacate the rental unit by November 30, 2015;
- the Tenant has never filed an Application for Dispute Resolution to dispute this Notice to End Tenancy;
- the Tenant was not required to pay rent for November of 2015 as compensation for being served with a Two Month Notice to End Tenancy;
- on December 01, 2015 the Landlord agreed to allow the Tenant to remain in the rental unit until December 15, 2015, providing she paid ½ month's rent;
- on December 14, 2015 the Landlord agreed that the Tenant could remain in the rental unit until December 18, 2015;
- no rent was paid for the latter portion of December;
- the Landlord did not agree that the Tenant could remain in the rental unit after December 18, 2015;
- the Tenant is still living in the rental unit;
- rent was paid for January of 2016 by the Provincial Government; and
- rent was paid for February of 2016 by the Provincial Government, although the Landlord has not yet cashed that cheque.

The Tenant was advised that because she did not dispute the Two Month Notice to End Tenancy she is exclusively presumed to have accepted that the tenancy ends on the basis of that Two Month Notice to End Tenancy. This direction was based on section 49(9) of the *Residential Tenancy Act (Act)*.

The Tenant was not permitted to argue the merits of the Two Month Notice to End Tenancy due to the exclusive presumption established by section 49(9) of the *Act*.

Upon being advised that the tenancy would end on the basis of the Two Month Notice to End Tenancy, the Landlord and the Tenant mutually agreed to settle this dispute under the following terms:

- the tenancy will end, by mutual consent, on February 18, 2016;
- the Tenant will not be required to pay any overdue rent for any period prior to February 01, 2016;
- the Landlords will cash the rent cheque provided to them for February of 2016;
- the Landlords will pay \$187.50 to the Tenant providing she has fully vacated the rental unit by February 18, 2016;
- the Landlord will receive an Order of Possession for the rental unit, effective February 18, 2016; and
- the Tenant will receive a Monetary Order for \$187.50 that is only enforceable if the rental unit was fully vacated the rental unit by February 18, 2016.

Analysis

This Application for Dispute Resolution has been settled by the parties in accordance with the aforementioned terms.

Conclusion

On the basis of the settlement agreement I grant the Landlords an Order of Possession that is effective at midnight on February 18, 2016. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

On the basis of the settlement agreement I grant the Tenant a monetary Order for \$187.50. This Order is only enforceable if the Tenant has fully vacated the rental unit by midnight on February 18, 2015. In the event the Tenant has fully vacated the rental unit by midnight on February 18, 2015 and the Landlords have not paid this amount to the Tenant, this Order may be served on the Landlords, filed with the Province of British Columbia Small Claims Court, and enforced as an Order of that Court.

This settlement agreement is recorded on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: February 15, 2016

Residential Tenancy Branch

