



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, MNSD, CNR, FF

Introduction

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”).

The Tenant applied on February 9, 2016 for:

1. An Order cancelling a Notice to End Tenancy – Section 46; and
2. An Order to recover the filing fee for this application - Section 72.

The Landlord applied on February 11, 2016 for:

1. An Order of Possession - Section 55;
2. An Order for unpaid rent or utilities - Section 67;
3. An Order to retain the security deposit – Section 38; and
4. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing in person on February 13, 2016 in accordance with Section 89 of the Act. The Tenant did not attend the hearing and failed to present its claim. I therefore dismiss the Tenant’s application. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to unpaid rent and the filing fee?

Background and Evidence

The tenancy with the Tenant and co-tenant started on August 1, 2015. The Landlord provided a copy of the written tenancy agreement. Rent of \$1,260.00 is payable monthly on the first day of each month. At the outset of the tenancy the Landlord collected \$640.00 as a security deposit.

On December 19, 2015 the co-tenant gave verbal notice to end the tenancy and on January 23, 2016 also provided a written notice to end the tenancy for January 30, 2016. The co-tenant moved out however the Tenant remained in the unit and no rent has been paid for February and March 2016. The Tenant still resides in the unit as of this date.

The Landlord claims \$2,520.00 and an order of possession.

Analysis

Section 45 of the Act provides that a tenancy ends when a tenant gives notice to end the tenancy. The Residential Tenancy Branch Policy Guideline #13 sets out the rights and responsibilities of co-tenants and indicates that when one tenant ends a tenancy it ends for all tenants. Section 55 of the Act provides that a landlord may request an order of possession where a notice to end the tenancy has been given by the tenant. Based on the undisputed evidence of the Landlord I find that the co-tenant ended the tenancy for itself and the Tenant and that the Landlord is therefore entitled to an order of possession.

As the Tenant did not move out of the unit and has remained in the unit to date I find that the Landlord has substantiated an entitlement to **\$2,520.00** for the Tenant's over holding of the unit. The Landlord is also entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$2,620.00**. Deducting the security deposit plus zero interest of **\$640.00** from this amount leaves **\$1,980.00**.

Conclusion

I grant an Order of Possession to the Landlord. The Tenant must be served with this **Order of Possession**. 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.

I Order the Landlord to retain the security deposit plus interest of \$640.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the remaining amount of **\$1,980.00**. If necessary, this order may be 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: March 22, 2016

Residential Tenancy Branch