



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OPR, MNR, MNSD, MNDC, FF (Landlord's Application)
CNR, OLC, ERP, PSF, MNDC, MNR, RP, RR, FF (Tenants' Application)

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the "Application") made by the Tenant on May 20, 2016 and by the Landlord on May 25, 2016.

The Tenant applied for the following reasons: to cancel a notice to end tenancy for unpaid rent; for money owed or compensation for damage or loss under the *Residential Tenancy Act* (the "Act"), regulation or tenancy agreement; for the Landlord to comply with the Act; to make emergency repairs for health and safety reasons; to make repairs to the rental unit; to provide services or facilities required by law; for the cost of emergency repairs; to reduce rent for repairs agreed upon but not provided; and, to recover the filing fee.

The Landlord applied for an Order of Possession and a Monetary Order for unpaid rent. The Landlord also applied for to keep the Tenant's security deposit, for monetary compensation, and to recover the filing fee.

Both parties appeared for the hearing and provided affirmed testimony. The hearing process was explained to the parties and they had no questions about the proceedings. The Tenant confirmed receipt of the Landlord's Application. However, the Landlord denied receipt of the Tenant's Application and his 12 pages of evidence.

As a result, the Tenant explained that he had made his Application on line and had provided an incorrect email address for the receipt of paperwork from the Residential Tenancy Branch. The Tenant had corrected the email address and confirmed that he had received the Notice of Hearing document that detailed the call in details for this

hearing. However, the Tenant explained that he did not get any paperwork instructing him to serve the Landlord with any documents.

I examined the electronic records for this file and it appears that the Tenant did have conversations with the Residential Tenancy Branch who had informed him that they would send the documents for service onto the Landlord to the Tenant to his corrected email address. However, I referred the Tenant to the general information detailed on the Notice of Hearing document which he did confirm receipt of from the Residential Tenancy Branch. These clearly detail the requirement to serve the respondent with any evidence the applicant intends to rely on, which I find the Tenant failed to do.

The Tenant had applied to dispute the notice to end tenancy which was served to him for unpaid rent. However as there was clear evidence before me that the Landlord had not been put on notice of the Tenant's remaining issues on his Application or of the evidence the Tenant was required to serve to the Landlord, I declined to deal with these matters. However, the Tenant was informed that he was at liberty to re-apply for the remaining monetary issues on his Application that were not dealt with in this hearing.

In relation to the Tenant's Application to cancel the notice to end tenancy for unpaid rent, I first heard from the Landlord and the Tenant's oral rebuttal evidence on this issue before I made findings on whether the proceedings should be adjourned to allow the Landlord to be served with the Tenant's documentary evidence.

The Tenant did not dispute the rental arrears that were outstanding as claimed by the Landlord in the amount of \$2,470.00 which was inclusive of the Landlord's filing fee. During this testimony, the Tenant indicated that he was planning to vacate the rental unit as he was not living there.

As a result, I offered the parties an opportunity to settle the Landlord's Application in full by way of mutual agreement. The parties discussed the issues and decided that voluntary mutual resolution was the best way to proceed in this matter.

Settlement Agreement

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.

The parties agreed to end the tenancy on **June 30, 2016 at 1:00 p.m.** which allows the Tenant sufficient time to return vacant possession of the rental unit to the Landlord

pursuant to Section 37(2) of the Act. The Landlord is issued with an Order of Possession effective for this date and time. This order may be filed and enforced in the Supreme Court of British Columbia as an order of that court if the Tenant fails to vacate the rental unit in accordance with the above agreement.

The Tenant allowed the Landlord to keep his security deposit of \$375.00 and agreed to pay the outstanding rental arrears, which includes June 2016 rent and the filing fee, in the amount of \$2,095.00. The Landlord is issued with a Monetary Order for this amount which may be enforced through the Small Claims Division of the Provincial Court as an order of that court if the Tenant fails to make payment. Copies of the above orders for service on the Tenant are attached to the Landlord's copy of this decision.

The parties confirmed their voluntary understating and agreement to the above conditions both during and at the conclusion of the hearing.

As the tenancy is shortly due to end, the Tenant's Application to cancel the notice to end tenancy, to make repairs and emergency repairs to the rental unit, to provide services or facilities, for the Landlord to comply with the Act, and to recover his filing fee are dismissed. The Tenant is at liberty to make an Application and put the Landlord on notice for the remainder of the issues. Both files are now closed.

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: June 22, 2016

Residential Tenancy Branch