



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

Tenant: CNR, LRE, MNDC, RPP, OLC
Landlord: OPR, MNR, MNSD, FF

Introduction

This hearing was convened in response to cross-applications by both parties pursuant to the *Residential Tenancy Act* (the Act) for Orders as follows. The tenant applied September 09, 2016 for:

1. *To Cancel a Notice to End for Unpaid Rent and Utilities - Section 46*
2. *A monetary order for damage and loss – Section 67*
3. *Control landlord's right to enter the rental unit – Section 70*
4. *Return personal property – Section 65 or 67*
5. *Order landlord to comply with the Act – Section 62*

The landlord applied September 27, 2016 and subsequently amended their application October 06, 2016 for:

1. *An Order of Possession - Section 55*
2. *A Monetary Order for unpaid rent and utilities - Section 67*

The applicant tenant was provided with a copy of the Notice of a Dispute Resolution Hearing dated September 12, 2016 after filing their application. The landlord testified they ultimately received the tenant's application and Notice of Hearing although later than prescribed. The landlord testified they served the tenant with their application and evidence by registered mail to the dispute address. The tenant, however, did not attend the hearing set for today at 11:00 a.m. The phone line remained open during the entire hearing time of 20 minutes and was monitored throughout this time. The only party to call into the hearing was the landlord and their witness. As a result of the above, the tenant's application was preliminarily **dismissed**.

The landlord testified the tenant still occupies the unit although they recently removed most of their personal property including their furnishings, leaving an abundance of clothing, pantry goods, children's toys, and miscellaneous refuse.

In addition to the landlord's evidence I accept the tenant is aware of the proceeding and was served with the landlord's original application for dispute resolution and notice of hearing. The landlord was given opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began March 01, 2016. Rent in the amount of \$1380.00 is payable in advance on the first day of each month pursuant to the tenancy agreement. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the total amount of \$990.00 inclusive of a prescribed deposit of \$300.00 for City utilities, all retained in trust. The tenant failed to pay all rent in the month of August 2016 and failed to pay any rent thereafter for September, October and November 2016.

On September 05, 2016 the landlord served the tenant with a notice to end tenancy for non-payment of rent by posting it on their door stating the tenant owed the outstanding rent. The tenant applied to dispute the notice but did not pay any rent after receiving the Notice. The landlord again served the tenant a notice to end tenancy for non-payment of rent on September 14, 2016 by posting it on their door stating the tenant owed outstanding rent for August and September in the sum of \$2080.00 and utilities of \$273.91. The landlord subsequently served the tenant a notice to end tenancy for non-payment of rent on October 03, 2016 by posting it on their door stating the tenant owed outstanding rent to that date in the sum of \$3460.00 and utilities of \$539.53. The landlord seeks an Order of Possession and a monetary Order for the outstanding rent to date.

The landlord further provided that the City disconnected the electric utility to the rental unit. The evidence of the landlord includes a letter from the City notifying the landlord / owner of the property of the utility arrears beyond the City's terms of payment, subject to disconnection, and stating the account in arrears in the amount of \$539.53 to October

11, 2016 will ultimately be the responsibility of the landlord if not settled by December 31, 2016.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, and more can be accessed via the website: www.gov.bc.ca/landlordtenant.

Based on the landlord's undisputed evidence I find that the tenant was served with notices to end tenancy for non-payment of rent and utilities and I find the notice to be valid. The tenant has not paid the outstanding amounts of rent or utilities despite their application to dispute the landlord's Notice(s), and further did not attend the hearing to defend their application – with the result that their application has been **dismissed**.

Based on the above facts I find that the landlord is entitled to an **Order of Possession, effective 2 days from the day the Order is served on the tenant** by a method prescribed in/by **Section 88** of the Act. I also find that the landlord has established a monetary claim for unpaid rent. In accordance with the letter from the City in respect to the unpaid electric utility, I dismiss the landlord's claim for utilities in the requested amount, *with leave to reapply* should the utilities account not be settled by December 31, 2016. All of the security deposit held by the landlord in trust will be off-set from the award made herein.

Calculation for Monetary Order

Unpaid rent August 2016	\$700.00
Unpaid rent September 2016	\$1380.00
Unpaid rent October 2016	\$1380.00
Unpaid rent November 2016	\$1380.00
<i>Less Security Deposit</i>	<i>-\$990.00</i>
Total Monetary Award / landlord	\$3850.00

I grant an Order of Possession to the landlord **effective 2 days from the day it is served on the tenant**. 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 that the landlord retain the entire security deposit of \$990.00 in partial satisfaction of the claim and I grant the landlord an Order under Section 67 of the Act for the balance due of **\$3850.00**. If necessary, this Order may be filed in the Small Claims Court and enforced as an Order of that Court.

Conclusion

The tenant's application is **dismissed**, *without leave to reapply*.

The landlord's application in relevant part is granted. The identified balance of the landlord's application is dismissed, *with leave to reapply*.

This Decision is final and binding on both parties.

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 02, 2016

Residential Tenancy Branch