



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

Tenant: MT, CNR, CNC
Landlord: OPR, MNR

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 January 16, 2017 for:

1. To Cancel a Notice to End for Unpaid Rent - Section 46
2. To Cancel a Notice to End for Cause - Section 47
3. More Time to make this application – Section 66

The landlord applied January 17, 2017 for:

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

Both parties attended the hearing and each had opportunity to make relevant prior submission to the hearing. Each was given opportunity to present all relevant evidence and testimony in respect to their claims and to and fully participate in the conference call hearing. The landlord provided document evidence which the parties acknowledged was not received by the tenant. The tenant did not provide document evidence. Despite not receiving the landlord's evidence the tenant was apprised as to the contents of the landlord's document evidence consisting primarily of the tenancy agreement, 2 Notices to End in dispute, and a utilities invoice. However, generally the landlord's evidence was deemed inadmissible as it was not received by the tenant. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

Preliminary matters

The parties agreed the tenant has vacated the rental unit therefore the tenant's

application disputing the landlord's Notices to End are moot. The tenant's application was therefore preliminarily dismissed. Upon the tenant vacating the rental unit the landlord effectively regained possession of the rental unit. As a result an Order of Possession is not necessary. The landlord does not require an Order of Possession, and their application for same is dismissed.

Issue(s) to be Decided

Is the landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on May 01, 2016 and has since ended on January 30, 2017 upon the tenant vacating the unit subsequent to filing their application.

Rent in the amount of \$2300.00 was payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit and pet damage deposit from the tenant in the sum amount of \$2300.00 which they retain in trust. The parties agree the tenant has not provided a forwarding address to date.

The tenant failed to pay all of the rent owed in the month of January 2017 and on January 10, 2017 the landlord served the tenant with a notice to end tenancy for non-payment of rent for January 2017. The tenant paid \$700.00 of the rent for January 2017 and vacated January 30, 2017. The landlord's monetary claim on application was for the unpaid rent for January in the amount of \$1600.00, with which the tenant agrees. The landlord seeks loss of revenue for February 2017 and subsequent months with which the tenant disagrees and for which the tenants were not notified. None the less the landlord also sought unpaid utility charges for the gas utility in the sum of \$560.52. Despite not being notified of this request the tenant agreed to pay the utilities in the claimed amount. The landlord acknowledged their request for an Order of Possession as moot.

Analysis

The full text of the Act, and other resources, can be accessed via the Residential Tenancy Branch website: www.gov.bc.ca/landlordtenant.

Based on the available admissible evidence I find that the tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The tenant did not pay the outstanding rent and despite their application accepted the Notice to End and vacated the rental unit.

I find that the landlord has established a monetary claim for unpaid rent for January 2017. The parties also agreed the landlord is owed charges for the gas utility. The landlord's request for losses of revenue and their other requests for loss have not been considered and are effectively dismissed; however it remains available to the landlord to apply making a claim for these aspects.

The tenant's deposits totalling \$2300.00 will be off-set from the award made herein.

Calculation for Monetary Order

Unpaid rent – January 2017 – to landlord	\$1600.00
Gas utility charges – as agreed – to landlord	\$560.52
total to landlord	\$2160.52
<i>Less security deposit and pet damage deposit in trust</i>	<i>-\$2300.00</i>
remaining in trust	(\$139.48)

I Order that the landlord may retain **\$2160.52** of the tenant's deposits in full satisfaction of their claim and I Order the landlord must retain the balance of **\$139.48** of the tenant's deposits **in trust** until administered in accordance with the Act or in accordance with an Arbitrator's Order.

Conclusion

The landlord's application in all relevant part is granted.

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: February 20, 2017

Residential Tenancy Branch