

DECISION

Dispute Codes LANDLORD: OPR, MNR, FF, O
TENANT: CNR, RP

Introduction

This hearing dealt with cross applications for Dispute Resolution filed by both the Landlords and the Tenant.

The Landlords filed seeking an Order of Possession, a monetary order for unpaid rent and utilities, to recover the filing fee for this proceeding and for other considerations.

The Tenant filed to obtain an order to cancel the Notice to End Tenancy and if successful; for the Landlord to do repairs to the unit, site or property.

Service of the hearing documents by the Landlords to the Tenant were done by personal delivery on March 25, 2017 in accordance with section 89 of the Act.

Service of the hearing documents by the Tenant to the Landlords was done by registered mail on March 23, 2017 in accordance with section 89 of the Act.

It should be noted that as the Tenant did not attend the hearing to support her application. Consequently the Tenant's application is dismissed without leave to reapply.

Issues to be Decided

Landlord:

1. Are the Landlords entitled to an Order of Possession?
2. Is there unpaid rent and utilities and if so how much?
3. Are the Landlords entitled to compensation for unpaid rent and utilities and if so how much?
4. What other considerations are there?

Background and Evidence

This tenancy started on May 1, 2016 as a fixed term tenancy with an expiry date of May 1, 2017. Rent is \$1,000.00 plus utilities per month payable on the 1st day of each month. The Tenant paid a security deposit of \$500.00 on May 1, 2016.

The Landlord said that the Tenant did not pay rent of \$1,000.00 and utilities of \$564.16 for the month of March, 2017, when it was due and as a result, on March 13, 2017, the Landlord personally delivered a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated March 13, 2017 to the Tenants at the rental unit. The Landlord continued to say that he had emailed the Tenant on March 1, 2017, indicating that the property was sold and the tenancy would end on May 1, 2017 as in the tenancy agreement. Further the Landlord said the Tenant has unpaid rent for April of \$1,000.00 and unpaid utilities for April, 2017 but the utility bills have not been issued as of yet.

The Landlord also said he is seeking to recover the \$100.00 filing fee for this proceeding. The Landlords said their total claim is for \$2,000.00 in unpaid rent, \$564.16 in unpaid utilities and the \$100.00 filing fee for a total claim of \$2,664.16. The Landlord also requested to retain the Tenant's security deposit of \$500.00 as partial payment of the unpaid rent.

Analysis

Section 26 (1) of the Act says a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent

I find that the Tenant has not paid the overdue rent and utilities and has not been successful in the Tenant's application dated March 16, 2017 to cancel the Notice to End Tenancy. Consequently, I find pursuant to s. 55(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenant.

I also find that the Landlord is entitled to recover unpaid rent for March and April, 2017 in the amount of \$2,000.00. I further find that the Landlord is entitled to recover the unpaid utilities in the amount of \$564.16.

As the Landlords have been successful in this matter, they are also entitled to recover from the Tenant the \$100.00 filing fee for this proceeding. I order the Landlord pursuant to s. 38(4) and s. 72 of the Act to keep the Tenant's security deposit in partial payment of the rent arrears. The Landlord will receive a monetary order for the balance owing as following:

	Rent arrears:	\$2,000.00	
	Unpaid Utilities:	\$ 564.16	
	Recover filing fee	\$ 100.00	
	Subtotal:		\$2,664.16
Less:	Security Deposit	\$500.00	
	Subtotal:		\$ 500.00
	Balance Owing		\$2,164.16

Conclusion

An Order of Possession effective 2 days after service of it on the Tenant and a Monetary Order in the amount of \$2,164.16 have been issued to the Landlords. A copy of the Orders must be served on the Tenant: the Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

The Tenant's application is dismissed without leave to reapply and the Tenant is ordered to bear the cost of \$100.00 for her application which she has already paid.

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: April 20, 2017.

Residential Tenancy Branch