



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR FF

Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) under the *Residential Tenancy Act* (the “Act”) by the landlord to obtain an order of possession for unpaid rent or utilities, a monetary order for unpaid rent or utilities, and to recover the cost of the filing fee.

The landlord and the tenant C.G. (the “tenant”) attended the teleconference hearing and gave affirmed testimony. During the hearing the parties were given the opportunity to provide their evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

The tenant confirmed that the tenants received the landlord’s documentary evidence and had the opportunity to review that evidence prior to the hearing. The tenant also confirmed that the tenants did not submit any documentary evidence in response to the landlord’s Application.

Preliminary and Procedural Matters

The landlord testified that in addition to the rent owed as claimed, the landlord has suffered an additional loss of rent up until the date of the hearing and wanted to include all rent owed as of the date of the hearing which I find to be reasonable. As the tenant confirmed that the tenants continue to occupy the rental unit and did not dispute the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated March 2, 2017 (the “10 Day Notice”) I find that the landlord’s request does not prejudice the respondent tenants as the tenants would be aware or ought to be aware that rent is due pursuant to the tenancy agreement. Therefore, I will address any amount of unpaid rent or loss of rent owing up to the date of this hearing on June 7, 2017.

At the outset of the hearing, both parties confirmed that they understood that interrupting the arbitrator or the other party would not be tolerated and that both parties would be given the opportunity to speak, with the landlord starting with his testimony followed by the tenant responding with her testimony. Both parties also confirmed that they had a pen and paper for the purposes of taking notes. Unfortunately the tenant interrupted both the landlord and the undersigned arbitrator continuously throughout the entire proceeding even though she was cautioned that she would be muted for the remainder of the hearing if she continued to interrupt. After the tenant disconnecting once from the hearing, the tenant called back into the hearing and the tenant was again reminded to cease interrupting before she told the undersigned arbitrator to “fuck off” and disconnected for the second time from the hearing. As a result, the hearing continued without the respondent tenant present. The hearing lasted a total of 36 minutes.

Issues to be Decided

- Is the landlord entitled to an order of possession under the *Act*?
- Is the landlord entitled to a monetary order under the *Act*, and if so, in what amount?

Background and Evidence

The parties agreed that a tenancy began on February 1, 2014 and that monthly rent of \$930.00 was due on the first day of each month. The parties also agreed that the tenants did not pay a security deposit or pet damage deposit during the tenancy.

The landlord submitted a copy of the 10 Day Notice which the tenant confirmed having received. The tenant also confirmed that the tenants did not file an application to dispute the 10 Day Notice.

The landlord has claimed for the following unpaid rent, unpaid utilities and loss of rent:

| ITEM DESCRIPTION | AMOUNT CLAIMED |
|---|----------------|
| 1. July 2016 unpaid rent | \$930.00 |
| 2. August 2016 unpaid rent | \$930.00 |
| 3. September 2016 unpaid rent | \$930.00 |
| 4. October 2016 unpaid rent | \$930.00 |
| 5. Unpaid portion of December 2016 rent | \$430.00 |
| 6. Unpaid portion of January 2017 rent | \$30.00 |

| | |
|---------------------------------------|-------------------|
| 7. March 2016 unpaid rent | \$930.00 |
| 8. October 31, 2016 unpaid hydro bill | \$370.06 |
| 9. January 25, 2017 unpaid hydro bill | \$472.13 |
| 10. March 2, 2017 unpaid hydro bill | \$694.22 |
| TOTAL | \$6,646.41 |

Regarding rent from July 2016 to October 2016, the tenant claims that she had an agreement to grow marijuana to offset rent owed which the landlord denied vehemently. The tenants failed to provide any documentary evidence that there was a work arrangement agreed to in writing to offset any rent owing throughout the tenancy. The tenant also agreed that the tenants were responsible for paying utilities and that they paid the utility bills until the summer of 2016 when the landlord put the utilities in their name. The tenant testified that she did not dispute the hydro bills submitted by the landlord.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

Order of Possession - I find that the tenants failed to pay the rent or dispute the 10 Day Notice within 5 days after receiving the 10 Day Notice, and that the tenants are conclusively presumed pursuant to section 46 of the *Act*, to have accepted that the tenancy ended on the corrected effective vacancy date on the 10 Day Notice which in the matter before me would be May 10, 2017 as the tenant confirmed receiving the 10 Day Notice on May 5, 2017 which was supported by the landlord. Accordingly, **I grant** the landlord an order of possession effective **two (2) days** after service on the tenants. I find the tenancy ended on May 10, 2017 and the tenants have been over-holding the rental unit since that date.

Claim for unpaid rent, loss of rent and unpaid utilities— I find the tenant's response to July through October 2016 unpaid rent to be unsupported by any documentary evidence and unbelievable given that the landlord denies any such arrangement regarding growing marijuana to offset rent. Furthermore, there is no written agreement that work would offset rent and as a result, I find that such a claim is without merit or supporting evidence and I find the tenant not to be credible as a result. Furthermore, the landlord submitted three utility bills which the tenant did not dispute the amounts of and confirmed that the tenants were responsible for the utility bills. As the tenants continue to occupy the rental unit and did not pay the utility bills I find the

landlord has met the burden of proof and has suffered a loss of unpaid rent, loss of rent and loss of unpaid utility bills for a total monetary amount of **\$6,646.41** as claimed.

As the landlord has succeeded with their application, I grant the landlord the recovery of the **\$100.00** filing fee.

Monetary Order – I find that the landlord has established a total monetary claim as follows:

| | |
|---|-------------------|
| Unpaid rent, loss of rent and unpaid utility bills as claimed | \$6,646.41 |
| Recovery of the cost of the filing fee | \$100.00 |
| TOTAL OWING BY THE TENANTS TO LANDLORD | \$6,746.41 |

As a result of the above and pursuant to section 67 and 72 of the *Act*, I grant the landlord a monetary order in the amount of **\$6,746.41** as described above.

Conclusion

The landlord's Application is successful.

The tenancy ended on May 10, 2017. The landlord has been granted an order of possession effective **two (2) days** after service upon the tenants. This order must be served on the tenants and may be enforced in the Supreme Court of British Columbia.

The landlord has been granted a monetary order in the amount of \$6,746.41. This order must be served on the tenants and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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 7, 2017

Residential Tenancy Branch