



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPRM-DR, FFL

Introduction

On January 24, 2018, an adjudicator appointed pursuant to the *Residential Tenancy Act* (the *Act*) issued an interim decision regarding the landlord's application for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

In the adjudicator's Interim Decision, this matter was adjourned to a participatory hearing. I have been delegated responsibility to undertake this participatory hearing.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The landlord's legal representatives at this hearing confirmed that they had authorization to act fully on the landlord's behalf in this matter.

The tenant confirmed that they received the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) sent by the landlord's representatives by registered mail on January 2, 2018. I find that the tenant was duly served with this Notice in accordance with section 88 of the *Act*.

The landlord's representatives testified that they sent the tenant a copy of the dispute resolution hearing package and Interim Decision by registered mail on January 29, 2018. The tenant confirmed that he received a copy of the Interim Decision of January 24, 2018, the landlord's application for dispute resolution and the remainder of the landlord's dispute resolution hearing package. I find that these documents were served in accordance with section 89 of the *Act* and the directions provided in the adjudicator's Interim Decision.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent? Is the landlord entitled to a monetary award for unpaid rent? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

On December 23, 2015, the parties signed a Residential Tenancy Agreement. The tenant was to take occupancy of the rental unit on January 15, 2016. Monthly rent was set at \$2,800.00 for the first year of this tenancy, payable in advance on the first of each month, and increased to \$3,000.00 for the second year.

The landlord's application for a monetary award of \$16,375.00 plus the recovery of the \$100.00 filing fee included the following items:

Item	Amount
Rent Owing from August 2017 (\$3,000.00 - \$1,625.00 = \$ 1,375.00)	\$1,375.00
Unpaid Rent September 2017 to December 2017 (4 months @ \$3,000.00 = \$12,000.00)	12,000.00
Unpaid Rent January 2018	3,000.00
Total Monetary Award Requested	\$16,375.00

At the hearing, the landlord's representatives requested an additional \$3,000.00 for unpaid rent that had become owing for February 2018. I have amended the landlord's application accordingly to include this additional amount in the amended application for a monetary award of \$19,375.00 requested by the landlord.

Analysis

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. During the hearing, the parties engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding resolution of their dispute:

1. Both parties agreed that this tenancy will end by 1:00 p.m. on March 31, 2018, by which time the tenant will have surrendered vacant possession of the rental unit to the landlord.
2. The tenant agreed to pay the landlord a total of \$19,375.00 by March 2, 2018.
3. Both parties agreed that in the event that the tenant does not abide by the monetary terms of this agreement as outlined above and pay the landlord \$19,375.00 by March 2, 2018, that this tenancy will end by 1:00 p.m. on March 5, 2018, by which time the tenant will have vacated the rental unit.

4. Both parties agreed that this settlement agreement constituted a final and binding resolution of the landlord's application and all issues currently in dispute arising out of this tenancy at this time and that they did so of their own free will and without any element of force or coercion.

Conclusion

To give effect to the settlement reached between the parties and as discussed at the hearing, I issue the attached Orders of Possession to be used by the landlord only in the event that the tenant does not vacate the rental premises in accordance with their agreement. The landlord is provided with these Orders in the above terms and the tenant must be served with an Order in the event that the tenant does not vacate the premises by the time and date set out in their agreement. I emphasize that the Order of Possession to take effect on March 5, 2018 is only valid in the event that the tenant fails to pay any portion of the \$19,375.00 the tenant committed to pay the landlord by March 2, 2018. In the event that the tenant does abide by the monetary terms of this settlement agreement, the Order of Possession requiring the tenant to vacate the rental unit by March 5, 2018, is of no force or effect. Should the tenant fail to comply with the Order served by the landlord, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

In order to implement the above settlement reached between the parties, I issue a monetary Order in the landlord's favour in the amount of \$19,375.00. I deliver this Order to the landlord in support of the above agreement for use in the event that the tenant does not abide by the terms of the above settlement. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders of that Court.

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 19, 2018

Residential Tenancy Branch