



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MAINSTREET EQUITY CORP.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNRL-S, MNDCL-S, FFL

Introduction

On August 30, 2018, the Landlord applied for a Dispute Resolution proceeding seeking an Order of Possession based on a 10 Day Notice to End Tenancy for Unpaid Rent (the “Notice”) pursuant to Section 46 of the *Residential Tenancy Act* (the “Act”), seeking a Monetary Order for Unpaid Rent and outstanding debts pursuant to Section 67 of the *Act*, and seeking to recover the Filing Fee pursuant to Section 72 of the *Act*.

K.L., R.M. and K.S. attended the hearing as agents for the Landlord. The Tenant attended the hearing as well. All in attendance provided a solemn affirmation.

The Landlord advised that the Tenant was hand served with the Notice of Hearing package and evidence on September 10, 2018 and September 27, 2018 respectively. The Tenant confirmed that he received these packages. In accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Tenant was served with the Notice of Hearing package and evidence.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to a Monetary Order for unpaid rent and other fees?
- Is the Landlord entitled to recover the filing fee?

Background and Evidence

Both parties agreed that the tenancy started on July 1, 2013 and that rent was currently \$663.27 per month, due on the first day of each month. A security deposit of \$350.00 was paid.

The Landlord advised that a rent increase was effective in May 2017; however, the Tenant continued to pay the amount of rent prior to the rent increase for six months. Therefore, he was in arrears \$22.76 per month from May 2017 to October 2017. As of November 2017, the Tenant then paid the appropriate amount of rent and continued to do so after the June 2018 rent increase. However, the Tenant did not pay August 2018 rent when it was due. The Landlord stated that the Notice was served to the Tenant by posting it on the door on August 7, 2018 which indicated that \$899.83 was outstanding on August 1, 2018. The Notice indicated that the effective end date of the Notice was August 17, 2018. The Landlord stated that the Tenant paid \$663.27 on August 23, 2018. The Landlord submitted that the Tenant paid the rent for September and October 2018 in full.

The Tenant advised that his father took care of his finances and was responsible for paying the rent. However, he had a falling out with his father in June or July of 2018. The Tenant advised that he spoke to the Landlord in July 2018 to get rent receipts, so he knew how much he should pay for rent; however, the Landlord did not answer this question and served the Notice instead. The Tenant confirmed that he received this Notice on August 7, 2018. The Tenant advised that his father had paid the alleged rent arrears and confirmed this with the previous building manager; however, he did not have proof of this as he was not on speaking terms with his father anymore.

The Landlord advised that no such exchange happened with respect to acknowledging that the rent arrears had been paid previously and their account ledger does not reflect the alleged payments.

Settlement Agreement

I raised the possibility of settlement pursuant to Section 63(1) of the *Act* which allows an arbitrator to assist the parties to settle the dispute. I explained to the parties that settlement discussions are voluntary, that if they chose not to discuss settlement I would make a final and binding decision on the matter, and that if they chose to discuss settlement and did not come to an agreement, that I would make a final and binding decision on the matter.

I advised the parties that if they did come to an agreement, I would write out this agreement in my written decision and make any necessary orders. I also explained that the written decision would become a final and legally binding agreement. The parties did not have questions about discussing a settlement when asked.

The parties engaged in a discussion on what would be an amenable settlement for both parties. The Landlord and the Tenant agreed as follows:

1. The Tenant will pay the rent arrears (\$22.76 X 6) of \$136.56, the \$75 plumbing repair bill, the \$25 late rent payment fee for August 2018, the \$0.03 owing, less the \$25.00 credit that the Tenant has, by November 1, 2018. Thus, the total amount owing is **\$211.59**.
2. In addition, the Tenant will also pay the rent due for November 2018 of **\$663.27** on November 1, 2018.
3. The rent will be paid in full on the first of each month for each of the following months.
4. The Notice of August 7, 2018 is cancelled and of no force or effect.
5. Should the Tenant have proof that the rent arrears from May 2017 to October 2017 had been paid prior, the Tenant shall present this evidence to the Landlord and the Landlord shall reimburse the Tenant accordingly. Should the Landlord not compensate the Tenant, the Tenant is at liberty to make an Application seeking compensation.

This agreement is fully binding on the parties and is in full and final satisfaction of this dispute.

If conditions one and two are not satisfactorily complied with, the Landlord is granted an Order of Possession that is effective **two days after service of this Order** on the Tenant.

If conditions one and two are not satisfactorily complied with, the Landlord is granted a Monetary Order in the amount of **\$874.86**. This Order is enforceable only if the Tenant fails to comply with the payment requirements set forth in the settlement above.

This settlement agreement was reached in accordance with Section 63 of the *Act*. The parties confirmed at the end of the hearing that this agreement was made on a voluntary basis and that the parties understood the binding nature of this full and final settlement of these matters.

Conclusion

The parties reached a full and final settlement agreement in resolution of their disputes. I have recorded the terms of settlement in this decision and in recognition of the settlement agreement, I hereby order that the 10 Day Notice to End Tenancy for Unpaid Rent of August 7, 2018 to be cancelled and of no force or effect.

In addition, in support of the settlement described above and with agreement of both parties, I grant the Landlord a conditional Order of Possession, to serve and enforce upon the Tenant if necessary, effective **two days after service**. This Order must be served on the Tenant. If the Tenant fails to comply with this Order, the Landlord may file the Order with the Supreme Court of British Columbia and be enforced as an Order of that Court.

In addition, I provide the Landlord with a conditional Monetary Order in the amount of **\$874.86** to serve and enforce upon the Tenant, if necessary. The Order must be served on the Tenant by the Landlord. Should the Tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order 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: October 16, 2018

Residential Tenancy Branch