



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing was scheduled to deal with the landlord's application for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent; damage or loss under the Act, regulations or tenancy agreement; authorization to retain the tenant's security deposit; and recovery of the filing fee. Both parties appeared at the hearing and were provided the opportunity to be heard and to respond to the submissions of the other party. The tenant confirmed service of the landlord's application and evidence.

Issues(s) to be Decided

1. Is the landlord entitled to an Order of Possession for unpaid rent?
2. Is the landlord entitled to a Monetary Order for unpaid rent and other damages or loss under the Act, regulations or tenancy agreement?
3. Is the landlord authorized to retain the security deposit?
4. Can the parties reach a mutual agreement to resolve their dispute?

Background and Evidence

I was provided the following undisputed evidence. The tenancy commenced December 5, 2007 and the tenant paid a \$625.00 security deposit. The tenancy agreement requires the tenant to pay rent of \$1,250.00 on the 1st day of every month. The tenancy agreement provides for late fees and NSF fees of \$25.00 each. The tenant has made several partial payments and late payments; however, the landlord has not charged the tenant late fees. The landlord has charged NSF fees were cheques have been

returned. On September 9, 2010 the landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent indicating \$1,480.06 in unpaid rent and an effective date of September 19, 2010. The Notice was served by regular mail sent on September 9, 2010. The tenant confirmed receiving the 10 Day Notice but did not dispute it. Rather, I heard the tenant gave \$2,500.00 to the landlord today.

The landlord testified that in February 2010 a Notice of Rent Increase was mailed to the tenant via regular mail for a rent increase of \$40.00 to take effective June 1, 2010. The tenant testified she never received the Notice of Rent Increase. The landlord first became aware of the tenant's dispute in August 2010 despite sending the tenant emails indicating her outstanding account balance.

Both parties expressed a willingness to resolve their dispute and continue the tenancy. The parties agreed to the following terms and asked that I record the agreement as follows:

1. The tenant will pay the remaining balance outstanding of \$270.06 to the landlord no later than October 31, 2010 and if payment is not received the landlord may serve the tenant with an Order of Possession provided the landlord with this decision.
2. Should the tenant comply with the above term, the tenancy shall continue and the tenant will pay rent of \$1,290.00 on the 1st day of every month from this date forward until such time the rent legally changes or the tenancy ends.
3. June 1, 2010 will be the date for purposes of determining the date of the last rent increase.
4. The landlord will provide new locks to the tenant at no cost to the tenant. The tenant was provided with the name and telephone number of the landlord's locksmith during the hearing for the tenant to call arrange a suitable time for re-keying.

Provided as evidence for this hearing were copies of the tenancy agreement, Notice to End Tenancy, tenant's ledger, and various correspondence with the tenant and from the Strata Council.

Analysis

I accept the mutual agreement reached between the parties as being a fair resolution to this dispute and make the terms an Order to be binding upon both parties.

In accordance with the mutual agreement, I ORDER the tenant to pay the landlord \$270.06 no later than October 31, 2010. If the tenant complies with this Order the tenancy shall continue. Should the tenant fail to make this payment the landlord may deduct this amount from the security deposit and serve the tenant with the Order of Possession that is provided to the landlord with this decision. The Order of Possession has an effective date of two (2) days after service and may be enforced as an Order of The Supreme Court of British Columbia.

This decision and mutual agreement serve as a final warning to the tenant that future late payments will not be tolerated and will be considered sufficient reason to end the tenancy for unpaid rent and/or cause.

Conclusion

This dispute has been resolved by mutual agreement as recorded in this decision. This tenancy shall continue if the tenant pays the landlord \$270.06 by October 31, 2010. The landlord has been authorized to deduct \$270.06 from the security deposit and serve the Order of Possession upon the tenant if the tenant fails to pay the landlord \$270.06 by October 31, 2010.

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 07, 2010.

Dispute Resolution Officer