



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, OPB, MNDC, MNR, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent and utilities, for compensation for damage or loss under the Act, regulations or tenancy agreement and to recover the filing fee for this proceeding.

The Landlord said he served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on March 9, 2011. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?
2. Are there rent and utility arrears and if so, how much?
3. Is the Landlord entitled to compensation for unpaid rent and utilities and if so how much?

Background and Evidence

This tenancy started on March 1, 2010 as a fixed term tenancy with an expiry date of March 1, 2011. The Landlord said he has extended the occupancy until March 28, 2011. Rent in the tenancy agreement was \$10.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$650.00 on March 1, 2010. The Landlord extended the occupancy of the unit to the Tenant until March 28, 2011 for \$800.00. The Landlord said the rent of \$10.00 in the tenancy agreement was low because the Landlord purchased the house from the Tenant and it was part of the sale agreement to rent the unit back to the Tenant at a nominal amount for one year.

The Landlord said that the Tenant has not paid the March, 2011 occupancy fee of \$800.00 and the Tenant has unpaid utilities of \$200.00 from the tenancy. The tenancy expired on March 1, 2011 as per the tenancy agreement, but as the Landlord offered and extension to occupy to March 28, 2011 for \$800.00 and the Tenant has continued

to live in the unit and he has not paid the March, 2011 occupancy fee of \$800.00. The Landlord said he is seeking an Order of Possession and a monetary Order for the unpaid occupancy fee of \$800.00 and unpaid utilities of \$200.00, totally \$1,000.00. The Landlord said the Tenant accepted the extension to occupy the rental by not moving out of the unit on March 1, 2011 and the Tenant said he would move out of the unit at the end of March 2011.

Analysis

Section 45 of the Act states that if a Landlord gives a one month notice to end tenancy because the fixed term of the tenancy ends the tenancy then a tenant must move out or make other arrangements with the Landlord.

The Landlord gave the Tenant notice that the tenancy was ending in a letter dated January 12, 2011. Tenant has not moved out or made other arrangements with the Landlord so consequently I find the tenancy to be ended as per the tenancy agreement and I grant the Landlord an Order of Possession with an effective vacancy date of March 28, 2011.

Section 26 (1) 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 the right under this Act to deduct all or a portion of the rent.

I find that the Landlord is entitled to recover of the unpaid occupancy fee in the amount of \$800.00 and unpaid utilities incurred during the tenancy of \$200.00.

As the Landlord has been successful in this matter, he is also entitled to recover from the Tenants the \$50.00 filing fee for this proceeding. The Landlord will receive a monetary order for the balance owing as following:

March, 2011 occupancy fee (rent)	\$ 800.00
March, 2011 utilities arrears	\$ 200.00
Recover Filing Fee	<u>\$ 50.00</u>
Subtotal	\$1,050.00

Conclusion

A Monetary Order in the amount of \$1,050.00 has been issued to the Landlord. A copy of the Orders must be served on the Tenant; the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

An Order of Possession effective March 28, 2011 has been issued to the Landlord. A copy of the Order must be served on the Tenant in accordance with the Act: the Order of Possession and may be enforced in the Supreme Court of British Columbia.

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*.

Residential Tenancy Branch