



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding VANCOUVER NATIVE HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPB FF

Introduction:

Only the property manager of the landlord (hereinafter called 'the landlord') attended and gave sworn testimony. He said the Application for Dispute Resolution was served by registered mail (number provided) and was not returned. I find that the tenant was legally served with the Application according to section 89 of the Act. The landlord applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) An Order of Possession pursuant to Sections 44 (1) (c) and 55 as the tenant has breached a term of the Mutual Agreement to End Tenancy by not vacating as agreed;
- b) For compensation for damages and unpaid rent;
- c) To retain the security deposit in satisfaction of the damage claim only; and
- d) An order to recover the filing fee pursuant to Section 72.

Issue(s) to be Decided:

Is the landlord entitled to an Order of Possession and to a Monetary Order for rental arrears, over-holding rent, damages and filing fee?

Background and Evidence:

Only the landlord attended and was given opportunity to be heard, to present evidence and to make submissions. The undisputed evidence is that the tenant commenced living in the premises on October 1, 2014, a security deposit of \$740 was paid and rent is currently \$1480 a month. The landlord's rental records show the tenant owes \$680 for each of December 2017 and January and February 2018 for a total of \$2040 owing in unpaid rent.

In evidence is a Mutual Agreement to End Tenancy signed by both parties to be effective November 30, 2017. However the landlord said she breached this agreement and did not vacate.

The landlord also provided evidence of significant damages in the unit in photographs. A pre-move out inspection was done and estimates obtained for repair. The estimates show a cost of \$4513.71 to repair or replace damaged items. However, the landlord said they are satisfied to retain the security deposit in full satisfaction of the costs of repair but they would like a monetary order for the unpaid rent and filing fee.

The tenant did not submit any documents or attend to dispute the amount owing.

On the basis of the solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis

Order of Possession

I find that the landlord is entitled to an Order of Possession. I find the parties mutually ended the tenancy by signing an agreement effective November 30, 2017. Pursuant to section 44(1) (c) of the Act, I find the tenancy legally ended on November 30, 2017. I find the landlord entitled to an Order of Possession effective two days from service.

Monetary Order

I find that there is over holding rent for December 2017 and January and February 2018 in the amount of \$2040 (\$680 x 3). I find the landlord entitled to a monetary order for \$2040 to recover this amount.

Regarding the claim for damages, I find the weight of the evidence is that the tenant has significantly damaged the unit in violation of the Act and her tenancy agreement. I find the pre-move out inspection report and the photographs strongly support the landlord's credibility. I find it credible that the cost to repair the damages will likely exceed \$4500 as the landlord provided estimates and photographs to support this. However, the landlord said they are prepared to waive costs of damages in excess of the security deposit. I find the landlord entitled to retain the security deposit in satisfaction of the damage claim.

Conclusion:

I find the landlord is entitled to an Order of Possession effective two days from service and a monetary order as calculated below. In addition, I find the landlord is entitled to retain the security deposit in satisfaction of the claim for damages. I find the landlord entitled to recover filing fees for this application.

Over holding rent	2040
Filing fee	100.00
Total monetary order to landlord	2140.00

I HEREBY ORDER that in addition to the monetary order issued, the landlord is entitled to retain the security deposit in satisfaction of the cost of damages to the unit.

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 20, 2018

Residential Tenancy Branch