



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

DECISION

Dispute Codes: CNR

Introduction

This application was brought by the tenants seeking to have set aside a 10-day Notice to End Tenancy for unpaid rent served on January 21, 2009.

Issue(s) to be Decided

This matter requires a decision on whether the Notice to End Tenancy should be upheld or set aside.

Background and Evidence

This tenancy began November 1, 2008 under a six-month fixed term agreement. Rent is \$1,200 per month and the landlord holds a security deposit of \$600 paid on November 1, 2008.

During the hearing, the landlord gave uncontested evidence that the notice to end tenancy had been served after the tenants' rent cheque for January had been returned NSF and was not replaced after he had notified them.

At the time of the hearing, \$1,000 of the January rent remained unpaid and the tenants had paid none of the rent for February.

The tenant gave evidence and explanation that his employment had been interrupted by a layoff and hospitalization and he agreed that the rent was in arrears by \$2,200.

Analysis

Section 46 of the *Act* which deals with notice to end tenancy for unpaid rent provides that a tenant may pay the overdue rent or make application for dispute resolution within five days of receiving the notice.

In this instance, the tenants have made application but the outstanding rent remains unpaid.

Therefore, I find that the Notice to End Tenancy is lawful and valid and cannot be set aside and the tenant's application is dismissed without leave to reapply.

Having heard that determination, the parties reached a mutual agreement that the tenants would pay the outstanding rent on Monday, February 16, 2009 and that the tenants would vacate the rental unit on February 28, 2009.

The parties agreed that the landlord should have an Order of Possession to perfect their agreement.

Conclusion

Therefore, the landlord's copy of this decision is accompanied by the Order of Possession, enforceable through the Supreme Court of British Columbia, effective at 1 p.m. on February 28, 2009.

February 13, 2009.

Dispute Resolution Officer