



Dispute Resolution Services

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

Decision

Dispute Codes: CNR FF O

Introduction

This hearing dealt with an application by the tenant to cancel a notice to end tenancy for unpaid rent. The tenant also applied for “other,” and provided details as follows: “In addition there are numerous deficiencies at the dispute address, of which none have been addressed in our five year tenancy. (plumbing, electrical, floor coverings, heating, pet issues, loss of use and enjoyment of premises, loss of sleep due to noise and damage to personal properties.” The tenant submitted witness letters and photographs in support of their application. The tenants and the landlord participated in the teleconference hearing.

Issue(s) to be Decided

Is the notice to end tenancy valid?

If so, is the landlord entitled to an order of possession?

Are the tenants entitled to compensation for the remainder of their application?

Background and Evidence

On January 19, 2009 the landlord served the tenants with a notice to end tenancy for non-payment of rent. The notice indicated that as of January 1, 2009, the tenants owed \$3,700 in unpaid rent and \$107.10 in unpaid utilities. The tenants did not dispute the amounts owing and did not make any payments toward those amounts. The evidence of one of the tenants was that she is the breadwinner in the household, but since she suffered a motor vehicle accident she has been out of work and therefore unable to pay the rent. In the hearing, the landlord verbally requested an order of possession.

In regard to the tenants' claim for "other," the tenants stated that they have suffered loss of quiet enjoyment because of other tenants, and though they complained verbally to the landlord on numerous occasions, he did not do anything about it. The tenants also provided photographic evidence of electrical, plumbing and other deficiencies in the rental unit. The tenants did not provide in their application or their oral testimony a monetary amount they sought for loss of quiet enjoyment.

Analysis

In regard to the notice to end tenancy, I find that the tenants were served with a notice to end tenancy for non-payment of rent and did not pay the outstanding rent. When a tenant applies to cancel a notice to end tenancy and the landlord verbally requests an order of possession in the hearing, if I find that the notice is valid I must issue an order of possession. I find in this case that the notice is valid and therefore I must grant the landlord an order of possession.

In regard to the tenants' application for "other," the tenants did not specify in their application that they sought a monetary order, and I therefore dismiss that portion of their application with leave to reapply.

As the tenants were unsuccessful in their application, they are not entitled to recovery of the filing fee for the cost of their application.

Conclusion

I grant the landlord an order of possession. The tenants must be served with the order of possession. Should the tenants fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Dated February 4, 2009.