

Dispute Resolution Services

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

Decision

Dispute Codes: CNC, FF

Introduction

This hearing dealt with an application by the tenant for an order setting aside a notice to end this tenancy. Both parties participated in the conference call hearing and had opportunity to be heard.

Issue(s) to be Decided

Does the landlord have grounds to end this tenancy?

Background and Evidence

The parties agreed that the tenant was served with a one month notice to end tenancy for cause on April 1, 2009. The cause alleged is that the tenant has repeatedly paid his rent late. The tenant is obligated to pay \$575.00 per month in rent. The parties provided copies of rent cheques which showed that on November 25, the tenant paid \$1,100.00 for rent for November and December, leaving him \$100.00 in arrears for December. The tenant testified that he did not realize that he had not paid the full amount of rent for December. A copy of the rent cheque for January was also entered into evidence and is dated February 25.

Analysis

Residential Tenancy Policy Guideline #38 provides that the tenant must have paid rent late on three occasions in order to support a notice to end tenancy. I find that the tenant paid rent late in November and December 2008 and January 2009. Although the tenant had not realized that he did not pay all his rent in December, his misunderstanding does not relieve him of the obligation to pay his rent in full on the day it is due. I find that the landlord has established cause to end this tenancy.

During the hearing the landlord made a request under section 55 of the legislation for an

order of possession. Under the provisions of section 55, upon the request of a landlord, I must issue an order of possession when I have upheld a notice to end tenancy. Accordingly, I so order. The tenant must be served with the order of possession. Should the tenant 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.

Conclusion

The tenant's application is dismissed. The landlord is granted an order of possession effective June 30, 2009.

Dated May 26, 2009.