

Decision

Dispute Codes: CNR, OLC, PSF, OPT

Introduction

This hearing dealt with an application from the tenant for cancellation of a notice to end tenancy for unpaid rent, an order instructing the landlord to comply with the Act / regulation / tenancy agreement, an order instructing the landlord to provide services or facilities required by law, and an order of possession. Both parties either participated or were represented in the hearing and gave affirmed testimony.

Issues to be decided

- Whether the tenant is entitled to any or all of the above under the Act

Background and Evidence

There is no written residential tenancy agreement in place for this month-to-month tenancy which began on or about July 15, 2008. Rent in the amount of \$100.00 is payable in advance on the first day of each month. No security deposit was collected.

As a result of various circumstances, while the tenant has paid no rent throughout the term of this tenancy, she states that she has made a number of improvements to the property. The landlord's agent (son) testified that the landlord is presently in hospital and is incapable of managing the tenancy. Meanwhile, the landlord's agent and another son have undertaken to manage the tenancy. The landlord's agent also testified that in the event the landlord is able to return home in the near future, it would be necessary to have the unit available to a caregiver.

The relationship between the parties reached a critical stage when the landlord's agents served the tenant with a 10 day notice to end tenancy for unpaid rent dated November 3, 2009. The notice was posted on the tenant's door on November 4, 2009. A copy of the notice was submitted into evidence. The notice reflects that rent is overdue for the

entire term of the tenancy. Subsequently, the tenant has made no payments toward rent, however, she filed an application for dispute resolution on November 10, 2009, which is within 5 days of having been served with the notice to end tenancy.

During the hearing the parties exchanged views on some of the circumstances surrounding the dispute, and undertook to employ good will in search of a resolution.

Analysis

Section 63 of the Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, constructive discussion between the parties during the hearing led to a resolution. Specifically, it was agreed as follows:

- that the tenant will vacate the unit by no later than 1:00 p.m., January 31, 2010, and that an order of possession will be issued in favour of the landlord to that effect;
- that the landlord will seek no compensation whatsoever from the tenant for unpaid rent between the time when the tenancy commenced on July 15, 2008 and the time when the order of possession is effective on January 31, 2010;
- that the landlord's agent will immediately ensure that the water valve which controls access of water to the unit is turned ON;
- that the tenant will undertake to deal with frozen water pipes if, indeed, pipes are frozen and need to be thawed in order to permit water to access the unit;
- that the tenant will provide the landlord with receipts or other proof that she incurred certain specific costs for the installation of a hydro meter and for an electrical inspection;
- that the above particulars comprise full and final settlement of all aspects of the dispute for both parties, which arise out of this tenancy and which are currently before me.

For the information of the parties, attention is drawn to the provisions set out in section 28 of the Act – **Protection of tenant’s right to quiet enjoyment**, and section 29 of the Act – **Landlord’s right to enter rental unit restricted**. A copy of these excerpts is enclosed for convenience. The full text of the legislation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website:

www.rto.gov.bc.ca/

Conclusion

Pursuant to all of the above, I hereby issue an order of possession in favour of the landlord effective not later than **1:00 p.m., January 31, 2010**. This order must be served on the tenant. 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.

DATE: December 14, 2009

Dispute Resolution Officer