

Decision

Dispute Codes:

CNR

Introduction

This is the Tenant's application to cancel a Notice to End Tenancy issued January 29, 2010, for unpaid rent.

I reviewed the evidence provided prior to the Hearing. The parties gave affirmed testimony and this matter proceeded on its merits.

Issue(s) to be Decided

- Should the Notice to End Tenancy issued January 29, 2010 be cancelled?

Background and Evidence

There is a written Tenancy Agreement, signed March 20, 2009. A copy of the Tenancy Agreement was issued in evidence. Monthly rent is \$600.00, due on the first day of each month.

The Tenant agreed that the Landlord is owed rent, but does not agree with the amount the Landlord states is owed. The Landlord provided an accounting, indicating the amount owed is \$2,168.55, including \$125.00 in late fees. The Tenant is uncertain how much is owed, but believes the actual amount owed is somewhere between \$1,200.00 and \$1,300.00. The Tenant did not provide any documentary evidence in support of the amount he says he owes.

The Tenant testified that the Ministry of Social Services pays rent to the Landlord directly on his behalf. The Tenant testified that the Ministry will not pay the amount owing to the Landlord without an order stating how much is owed.

The Landlord's agent stated that the Landlord wants an Order of Possession for unpaid rent.

Analysis

The Tenant received the Notice to End Tenancy for Unpaid Rent on January 29, 2010, and applied to cancel the Notice on the same day.

Section 26(1) of the Act states:

Rules about payment and non-payment of rent

- 26** (1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

The Tenant has applied to cancel the Notice to End Tenancy for Unpaid Rent, but agrees that the Landlord is owed rent. Therefore, I dismiss the Tenant's application to cancel the Notice to End Tenancy for Unpaid Rent and find that the effective date of the end of tenancy was February 9, 2010.

Section 55(1) of the Act states:

Order of possession for the landlord

- 55** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,
- (a) the landlord makes an oral request for an order of possession, and

(b) the director dismisses the tenant's application or upholds the landlord's notice.

The landlord requested an Order of Possession at the Hearing. I have dismissed the Tenant's application and therefore the Landlord is entitled to the Order of Possession. The effective date of the end of the tenancy was February 9, 2010, and therefore I provide the Landlord with an Order of Possession **effective two days from service of the order.**

I make no order with respect to a monetary order for unpaid rent and late fees, as this matter is not before me. The Landlord has not applied for any such order.

Conclusion

The Tenant's application to cancel the Notice to End Tenancy for Unpaid Rent is dismissed.

I grant the Landlord an Order of Possession **effective two days from service of the order.** This Order must be served on the Tenant and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

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.

March 16, 2010

Date of Decision
