

DECISION

Dispute Codes CNC, RP, RR

Introduction

This hearing dealt with an application by the tenants for an order setting aside a notice to end this tenancy, an order that the landlord perform repairs and an order permitting the tenants to reduce their rent until repairs are completed. Both parties participated in the conference call hearing.

Issues to be Decided

Are the tenants entitled to an order setting aside a notice to end the tenancy?

Are the tenants entitled to an order that the landlord perform repairs?

Are the tenants entitled to an order permitting them to reduce their rent?

Background and Evidence

The parties agreed that the tenants are obligated to pay \$995.00 per month in rent for the unit. The parties further agreed that the tenants were at times permitted to perform repairs and upon submission of receipts to the landlord, to deduct the cost of repairs from their rent. The parties further agreed that in the months of December – March inclusive, the tenants did not pay rent on time and that on or about March 30 the tenants were served with a one month notice to end tenancy for repeated late payment of rent.

Analysis

Residential Tenancy Policy Guideline #38 provides that in order to establish repeated late payment of rent, the landlord must prove a minimum of 3 late payments. In this case the landlord has proven that 4 late payments were made. Although the tenants were permitted to reduce their rent in certain months, this did not relieve them of the obligation to pay the reduced rent to the landlord on the first day of the month in which it was due. I find that the landlord has established grounds to end the 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 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. The order is effective at noon on May 30, 2010 pursuant to the request of the landlord.

I dismiss the claims of the tenants for orders that the landlord perform repairs and that they be permitted to reduce their rent until repairs are completed. As the tenancy is ending I find it unnecessary to make such orders and the reduction of rent would not have been retroactive in any event.

Conclusion

The tenants' claim is dismissed and the landlord is granted an order of possession.

Dated: May 19, 2010
