

DECISION

Dispute Codes:

CNR, MNDC, OLC

Introduction

This hearing was convened in response to an application by the tenant

On June 07, 2010 the tenant sought to:

- Cancel a 10 Day Notice to End (NTE) Tenancy for Unpaid Rent,
- For the landlord to comply with the Act: for landlord to change locks
- For money owed or compensation for damage or loss under the Act, regulation or tenancy agreement: unspecified

Both parties attended the conference call hearing and participated with their sworn testimony and questions.

At the outset of the hearing the landlord requested an Order of Possession effective as soon as possible should the landlord's Notice to End be upheld.

Issue(s) to be Decided

Is the Notice to End Tenancy valid?

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to the monetary amounts claimed?

Should the landlord be ordered to comply with the Act?

Background and Evidence

The parties' undisputed evidence is that the tenancy began on March 01, 2010. Rent is in the amount of \$375 each month.

The landlord testified that the tenant failed to pay rent in the month of June 2010 and on June 03, 2010 the landlord served the tenant with a Notice to End Tenancy (NTE) for non-payment of rent with an effective date of June 13, 2010. The tenant further failed to

pay rent in the month of July 2010. The landlord's testimony requests an immediate Order of Possession.

The tenant, at first, testified they withheld the rent owed the landlord and have not paid the rent pending this hearing date. The tenant then testified they paid the rent for June 2010 in cash to the landlord's daughter, for which the landlord's wife gave the tenant a receipt. The male landlord testified the tenant is not being truthful and that in discussion with his wife he would have come to know the tenant had been issued a receipt. Regardless, the attending male landlord testified that he is the one that collects the rent and that the tenant has not paid the rent.

Analysis

Based on the testimony of both parties, and on the on the balance of probabilities, I find the burden of proof lies with the tenant to show they have paid the rent owed. The tenant claims they have a receipt for the rent in dispute, but they have not provided this in support of their application to set aside the Notice to End.

I find that the tenant was served with a notice to end tenancy for non-payment of rent and I find that notice to be valid. The tenant has not paid the outstanding rent, and despite their application to dispute the notice to end, they have not provided any acceptable evidence or proof upon which to dispute the landlord's entitlement to the rent. As a result, the tenant's application to cancel the Notice to End for unpaid rent dated June 03, 2010 **is hereby dismissed** – the landlord's Notice is upheld.

Section 55 of the Act, in part, states as follows: **(emphasis for ease)**

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.

Based on the above facts I find that the landlord is entitled to an Order of Possession.

As I have found that the tenancy is ending, I decline to consider the tenant's claim respecting locks. I also make no finding in respect to the tenant's monetary claim as the tenant did not speak to this portion of their application.

Conclusion

The tenant's application is **dismissed**.

I grant an Order of Possession to the landlord effective **July 31, 2010**. The landlord is being given this order. The tenant must be served with this 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.

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*.