

Decision

Dispute Codes: CNE, RP, RR

Introduction

This hearing dealt with an application by the tenants for cancellation of the notice to end tenancy because the “tenant’s employment with landlord has ended”; an order instructing the landlord to make repairs to the unit, site or property; and authorization for the tenant to reduce rent for repairs, services or facilities agreed upon but not provided.

Tenant “CLS” participated in the hearing and gave affirmed testimony. The landlord did not appear.

Issues to be decided

- Whether the landlord was properly served with the application for dispute resolution and notice of hearing (the “hearing package”)
- Whether the tenants are entitled to any or all of the above under the Act

Background and Evidence

A written tenancy agreement is not in evidence for the month-to-month tenancy which began on January 1, 2005. Rent in the amount of \$650.00 is payable in advance on the first day of each month. A security deposit of \$325.00 was collected at the outset of tenancy. The tenant states that the current landlord took over the property from the original landlords approximately four years ago.

The tenant testified that she made an error in her completion of the application where it concerns cancellation of the notice to end tenancy; specifically, she testified that she is not currently employed by the landlord and has not previously been employed by the landlord.

Further, the tenant testified that she has not ever been served with formal written notice to end tenancy. Rather, she stated that the landlord's secretary verbally informed her in early June 2010 her that she should vacate the unit.

As to service of the hearing package, the tenant testified that she personally served it on the landlord's secretary at the landlord's place of business on or about June 7, 2010. Thereafter, she said she has had no conversation with either the landlord's secretary or with the landlord himself, who she understands is presently overseas.

The tenant's application includes no particular information or documentary evidence in support of her claim that certain repairs are required to the unit, site or property, and / or that she is entitled to a reduction in rent.

Analysis

The full text of the Act, regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca/

Section 88 of the Act speaks to **How to give or serve documents generally**. Section 89 of the Act addresses **Special rules for certain documents**, and provides in part as follows:

89(1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, must be given in one of the following ways:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;

(d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;

(e) as ordered by the director under section 71(1) [*director's orders: delivery and service of documents*].

Based on the documentary evidence and the affirmed / undisputed testimony of the tenant, I find that the landlord was properly served with the hearing package by way of the tenant's personal service on the landlord's secretary ("agent"). Despite this, the landlord did not attend the hearing, nor was he represented at the hearing.

Part 4 of the Act speaks broadly to **How to End a Tenancy**. Based on the documentary evidence and the affirmed / undisputed testimony of the tenant, I find that as the tenant has not been served with proper notice to end tenancy, and the landlord has not applied for an order of possession, the tenancy continues uninterrupted.

Section 32 of the Act addresses **Landlord and tenant obligations to repair and maintain**, and section 33 of the Act speaks to **Emergency repairs**. As previously stated, detailed information and evidence concerning these aspects of the tenant's application are lacking. In the result, this aspect of the application is hereby dismissed with leave to reapply.

Conclusion

The tenancy continues in full force and effect.

Aspects of the application concerning repairs and reduction in rent are hereby set aside with leave to reapply.

DATE: July 9, 2010

Dispute Resolution Officer