

DECISION

Dispute Codes CNC, CNR

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the landlord's Ten Day Notice to End Tenancy for Unpaid Rent pursuant to section 46; and
- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause pursuant to section 47.

Both parties attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions. The landlord testified that she posted a 1 Month Notice to End Tenancy for Cause on the tenant's door on July 31, 2010. The landlord testified that she posted a Ten Day Notice to End Tenancy for Unpaid Rent on the tenant's door on September 2, 2010. The tenant testified that she handed a copy of her original application for dispute resolution to the landlord on August 4, 2010 regarding the 1 Month Notice. The landlord confirmed that she received the tenant's original application for dispute resolution on August 4, 2010. She also testified that she received the tenant's amended application seeking cancellation of the Ten Day Notice to End Tenancy on September 9, 2010. I am satisfied that all of these notices and applications were served in accordance with the *Act*.

The parties did not enter into evidence a copy of the landlord's 1 Month Notice to End Tenancy for Cause. The landlord testified that she was interested in obtaining an Order of Possession based on the tenant's failure to pay any portion of her September 2010 rent. On this basis, I considered only the landlord's Ten Day Notice to End Tenancy for Unpaid Rent.

Issues(s) to be Decided

Is the tenant entitled to cancellation of the landlord's Ten Day Notice to End Tenancy for Unpaid Rent? Is the landlord entitled to an Order of Possession?

Background and Evidence

The landlord testified that this one-year fixed-term tenancy commenced on October 1, 2009. The scheduled termination date for this tenancy agreement was September 30, 2010. Rent was set at \$850.00 per month, payable on the first of each month. The landlord said that she continues to hold the tenant's \$425.00 security deposit and \$425.00 pet deposit, both paid on September 13, 2009.

The landlord testified that she issued her Ten Day Notice to End Tenancy for Unpaid Rent on September 2, 2010, when the tenant failed to make her September rent payment. She said that since that date the tenant has not paid any portion of her September rent. The tenant testified that she paid \$850.00 in cash on September 1, 2010. The landlord asked if she had a receipt for that payment, noting that the landlord always provides receipts for such payments. The tenant said that she has a receipt for this payment, but has not submitted this receipt into evidence. She said that no one told her that she needed to submit this receipt.

The tenant testified that she plans to vacate the rental premises on Saturday, September 25, 2010. She said that she has arranged for a truck to assist her with her move that day. The landlord testified that she would be satisfied with an Order of Possession that took effect that date.

Analysis

The tenant applied under section 46(4) of the *Act* within five days of receiving the Ten Day Notice. On page 2 of the Ten Day Notice for Unpaid Rent, the tenant was advised of the following:

Tenants may dispute the notice for specific reasons such as:

- *They have proof the rent was paid.*

In the absence of any proof from the tenant that she has paid any portion of her September 2010 rent, I dismiss the tenant's application for cancellation of the Ten Day Notice to End Tenancy for Unpaid Rent. Based on the testimony of the parties, I grant the landlord an Order of Possession to take effect at 7 o'clock in the evening on September 25, 2010.

Conclusion

I dismiss the tenant's application for cancellation of the Ten Day Notice to End Tenancy for Unpaid Rent. I grant the landlord an Order of Possession effective at 7 o'clock in the evening on September 25, 2010. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Since I am issuing an Order of Possession based on the Ten Day Notice to End Tenancy, there is no need for me to make a finding regarding the tenant's application to cancel the landlord's 1 Month Notice to End Tenancy for Cause.

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*.