



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNC

Introduction

This matter dealt with an application by the Tenant to cancel a One Month Notice to End Tenancy for Cause dated August 11, 2010.

The hearing started at 11:10 am as scheduled, however by 11:10 am, the Tenant-Applicant, had not dialled into the conference call and as a result, the hearing proceeded in the Tenant's absence. The Landlord's agents said they served the Tenant with their evidence package in person on August 25, 2010.

Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?

Background and Evidence

This month-to-month tenancy started on September 1, 2007. Rent was \$458.00 effective September 1, 2009 and was \$594.00 effective July 1, 2010.

On August 11, 2010, the Landlord served the Tenant with a One Month Notice to End Tenancy for Cause dated August 11, 2010. The Notice alleged that the Tenant was repeatedly late paying rent. The Agents for the Landlord claimed that due to the Tenant's failure to inform Social Services about the correct rate of rent, she continuously had rent arrears which by December 2009 had accumulated to \$458.00 and which remained unpaid until approximately the end of August 2010.

The Landlord's agents said they tried to work with the Tenant by repeatedly advising her to inform Social Services of the correct rental rate (which was paid directly to the Landlord) but she failed to do so. Consequently, the Landlord's agents said they served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent dated June 15, 2010. The Landlord's agents said that on June 18, 2010, the Tenant agreed in writing to pay the arrears by way of monthly instalments of \$100.00 commencing July 1, 2010 (to be paid no later than October 2010). The Landlord's agents said the Tenant failed to make a payment in July 2010 but admit the balance of the arrears was paid by the end of August, 2010. However, the Landlord's agents argued that the Tenant's failure to make a payment in July 2010 rendered the agreement void and as a result, they served the



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Tenant with another 10 day Notice to End Tenancy for Unpaid Rent on August 11, 2010.

Analysis

Section 47(4) of the Act says that a Tenant who receives a One Month Notice to End Tenancy for Cause must apply to dispute that Notice within 10 days or they will be deemed pursuant to s. 47(5) of the Act to have accepted that the tenancy will end on the effective date of the Notice. Although the Tenant applied to cancel the One Month Notice, she did not attend the hearing to give evidence in support of that application and for that reason her application is dismissed without leave to reapply.

RTB Policy Guideline #38 states that "three late payments are the minimum number sufficient to justify a notice under these provisions." The Landlord's agents provided account ledgers which show that the Tenant had rent arrears for each month during the period December 2009 to August 2010. Consequently, I also find that there were in excess of 3 late rent payments and that the Tenant's application to cancel the One Month Notice dated August 11, 2010 would be dismissed for that reason as well.

Consequently, the Tenant's application to cancel the One Month Notice to End Tenancy for Cause dated August 11, 2010 is dismissed without leave to reapply. The Landlord's agents requested and I find that they are entitled pursuant to s. 55(1) of the Act to an Order of Possession to take effect on September 30, 2010 at 1:00 p.m.

Conclusion

An Order of Possession effective September 30, 2010 has been issued to the Landlord. A copy of the Order must be served on the Tenant and may be enforced in the Supreme Court of British Columbia.

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*.

Dated: September 02, 2010.

Dispute Resolution Officer