



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNR, MNDC, RR

Introduction

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

Issues to be Decided

Should the notice to end tenancy be set aside?

Are the tenants entitled to a monetary order?

Background and Evidence

The parties agreed that rent for the unit in question is \$550.00 per month and that the tenants did not pay rent in the months of July and August. The parties further agreed that the tenants received a 10 day notice to end tenancy for unpaid rent on August 10. The residential property was formerly under the direction of L.K. and at some point in or about the spring of 2010 the Court ordered that his estranged wife, M.K., take control of the property. M.K. appointed a property management company, C.B., to manage the property on her behalf. It was an agent of C.B. that served the tenants with the notice to end tenancy.

The tenants testified that at some point in early 2010, L.K. told the tenant G.R. that if he acted as an assistant manager in the building, he would not have to pay rent. The tenants further testified that on a number of occasions, repairs to the building were required and L.K. would tell G.R. that if he performed those repairs, he would either be

paid or would not have to pay rent. The tenants produced 2 witnesses who testified that they witnessed L.K. tell G.R. that he would not have to pay rent if he acted as an assistant manager.

L.K. participated in the hearing via telephone and testified that at no time did he ask G.R. to act as a building manager, nor did he tell G.R. that he would receive compensation or free rent for any work performed.

The tenants also seek a monetary order for \$8,600.00.

Analysis

The parties agreed that \$550.00 was payable each month in rent. The burden lies with the tenants to prove that there has been an arrangement under which they are no longer obligated to pay rent. I find that the tenants have failed to meet that burden. Although the tenants produced witnesses to their conversations, it was brought to my attention that at least one of these witnesses is motivated to lie as his tenancy is also in jeopardy for unpaid rent. L.K. is no longer in control of the property and I find it unlikely that he is motivated to lie about such arrangements. I find that the tenants were not relieved of their obligation to pay rent and accordingly I decline to set aside the notice to end 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 tenant must be served with the 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.

As for the tenants' monetary claim, the tenants provided no details of their monetary claim prior to the hearing. Rule 3.1 of the Rules of Procedure requires applicants to provide details of their claim with their application for dispute resolution both to the Residential Tenancy Branch and to the respondent. As the tenants have failed to do so,

they have deprived the landlord of the opportunity to defend the claim. The claim is therefore dismissed.

As the tenancy is ending it is unnecessary for me to address the claim for a future reduction in rent and I dismiss that claim.

Conclusion

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

Dated: September 30, 2010

Dispute Resolution Officer