

DECISION

Dispute Codes OPC

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution, seeking an Order of Possession.

The landlord and witness appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

The tenant TP appeared late, but gave affirmed testimony and was provided the opportunity to present his evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession?

Background and Evidence

The landlord provided affirmed testimony regarding the reasons why he issued the tenants a One Month Notice to End Tenancy, however he gave contradictory testimony as to when and how the Notice was delivered on the tenants. The landlord could not state from the copy of the Notice which he said was in front of him what date the Notice was served or the effective date. There was further contradictory testimony as to how many notices were issued and whether or not they were verbal or written.

The landlord denied that there was a tenancy and stated that he accepted no rent from the tenants. However the landlord's witness testified and gave evidence that this was a rental situation and that the landlord accepted rent payments.

The landlord did not supply any evidence, such as a copy of a tenancy agreement, a copy of the Notice to Tenancy or proof of service of the application for dispute resolution

in support of their Notice to End Tenancy. I note that the landlord supplied a statement from the Vancouver Police Department stating that on August 30, 2010, the landlord delivered “eviction” papers on the tenants, but it is not clear what the “eviction” document was.

Tenant TP gave affirmed testimony stating that there was an oral tenancy agreement and that for the last three months, the landlord has refused his payments of rent. The tenant further contradicted the testimony of the landlord regarding dates of delivery of the Notice to End Tenancy, but did acknowledge that an oral notice to vacate was issued in July.

Analysis

Based on the foregoing, the contradicted testimony and evidence, and on a balance of probabilities, I find as follows:

The landlord had insufficient evidence to show the tenants were issued a valid One Month Notice to End Tenancy, or any Notice at all, other than a verbal notice.

The landlord also had insufficient evidence to prove the existence of a tenancy agreement, indicating on the Application there was an agreement and in testimony stating there was no tenancy agreement.

Based on the above, I find that I cannot allow the landlord’s Application for Dispute Resolution, and **I order that it be dismissed.**

Conclusion

The landlord’s Application for Dispute Resolution is dismissed as there is no evidence the Notice to End Tenancy issued is valid.

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: October 06, 2010.

Dispute Resolution Officer