

Decision

Dispute Codes: CNC / OPC, MNDC, RR

Introduction

This hearing dealt with an application by the tenant for cancellation of a 1 month notice to end tenancy for cause, a monetary order as compensation for damage or loss under the Act, regulation or tenancy agreement, and permission to reduce rent for repairs, services or facilities agreed upon but not provided. Both parties participated in the hearing and gave affirmed testimony.

During the hearing the landlords confirmed their request for an order of possession, in the event the tenant's application to cancel the notice to end tenancy does not succeed.

Issues to be decided

- Whether either party is entitled to any of the above under the Act, regulation or tenancy agreement

Background and Evidence

Pursuant to a written tenancy agreement, a copy of which is not in evidence, the month-to-month tenancy began on or about June 2, 2006. Currently, rent in the amount of \$588.00 is payable in advance on the first day of each month. A security deposit of \$275.00 was collected at the outset of tenancy.

Arising from a number of concerns related to the tenancy, the landlords issued a 1 month notice to end tenancy for cause dated October 22, 2010. The tenant received the notice on the same date and filed an application to dispute it on October 26, 2010. A copy of the notice was submitted into evidence. Reasons shown on the notice for its issuance are as follows:

Tenant is repeatedly late paying rent

Tenant or a person permitted on the property by the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord

Tenant has engaged in illegal activity that has, or is likely to:

- adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord

Further to the above notice, the landlords have issued a number of 10 day notices to end tenancy for unpaid rent or utilities. The parties appeared to be in agreement that so far this calendar year, payment of rent has been late on nine (9) occasions. Presently, rent has been paid up to the end of November 2010. The landlords confirmed that they seek to have an order of possession effective November 30, 2010.

As to the monetary aspect of the tenant's application, during the hearing the parties exchanged views related to work undertaken in the unit bathroom, and sought to achieve a resolution.

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 47 of the Act speaks to **Landlord's notice: cause**, and provides in part as follows:

47(1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

- (b) the tenant is repeatedly late paying rent;

Residential Tenancy Policy Guideline # 38 addresses "Late Payment of Rent," and provides in part as follows:

Three late payments are the minimum number sufficient to justify notice under these provisions.

Based on the documentary evidence and testimony of the parties, I find that the landlords have established entitlement to an order of possession on the basis of repeatedly late payment of rent. Pursuant to the landlords' request, the order of possession will be issued effective November 30, 2010.

Section 63 of the Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the parties during the hearing led to a resolution of the compensatory aspect of the tenant's application. Specifically, it was agreed as follows:

- that the landlords will pay the tenant \$151.76, and that a monetary order will be issued in favour of the tenant to that effect;
- that the above payment will be made by cheque;
- that the above cheque will be delivered to the tenant by no later than midnight, Tuesday, November 23, 2010;
- that the above particulars comprise full and final settlement of all aspects of the dispute arising from this tenancy for both parties, which are currently before me.

Conclusion

I hereby issue an **order of possession** in favour of the landlords effective not later than **1:00 p.m., Tuesday, November 30, 2010**. This order must be served on the tenant. 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.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenant in the amount of **\$151.76**. Should it be necessary, this order may be served on the landlords, filed in the Small Claims Court and enforced as an order of that Court.

DATE: November 23, 2010

Dispute Resolution Officer