

DECISION

Dispute Codes CNC, CNR, RP, OPR, MNR, MNSD, FF

Introduction

There is an application by the Tenant to cancel a notice to end tenancy for cause and for unpaid rent and is also seeking to have the Landlord make repairs to the unit and recovery of the filing fee.

The Landlord has filed an application for an order of possession resulting from a 1 month notice to end tenancy for cause, a monetary order for unpaid rent and to keep the security deposit and the recovery of the filing fee.

Both parties attended by conference call and gave affirmed testimony.

Issues(s) to be Decided

Is the Landlord entitled to an order of possession for repeated late rent payments?

Is the Landlord entitled to a monetary order for unpaid rent?

Background and Evidence

The one month notice to end tenancy for cause was served in person by the Landlord on October 20, 2010. The Tenant's hearing documents were served on the Landlord by registered mail on October 22, 2010. The Landlord's hearing documents were served

by posting it on the Tenant's door on November 3, 2010. Tenant stated at the beginning of the hearing that they did not receive the Landlord's evidence package that was received by the RTB on November 10, 2010. The Landlord produced the witness, H.C. that confirmed that the evidence was served on November 11, 2010. The Landlord states that he did not receive the Tenant's evidence package. The Tenant states that he personally served the evidence on the Landlord. No proof of service was provided by the Tenant.

There is no signed tenancy agreement between the parties. The monthly rent is \$600.00 and the Tenant paid a \$100.00 security deposit in cash on May 8, 2010 after a \$300.00 cheque for the security deposit was returned NSF. The Landlord states that rent is paid by the 1st of each month and the Tenant disputes that and states that since he moved in on the 8th, that monthly rent was always paid on the 8th of each month. The Landlord has provided into evidence a letter dated August 2, 2010 which states that the Tenant has not paid rent for August 1, 2010. Also provided is a 10 day notice to end tenancy for unpaid rent dated September 2, 2010 for unpaid rent on September 1, 2010 as well as another 10 day notice to end tenancy dated November 3, 2010 for unpaid rent on November 1, 2010. A letter dated November 10, 2010 also shows a demand for unpaid rent for November 1, 2010.

The Landlord states that as of the hearing date that November rent of \$600.00 has not been paid. The Tenant argues that the rent was paid in cash, but has no receipt or proof of payment.

Analysis

The Tenant has stated that he has not received the evidence package submitted by the Landlord. The Landlord has produced a witness, H.C. to confirm that the Tenant was

served in person with that package. I am satisfied based on the witness's affirmed testimony that the evidence was properly served.

The Landlord has stated that he did not receive the Tenant's evidence package. The Tenant states that he served it on the Landlord in person but is unable to provide any proof of service. With the Landlord's objection to the evidence and without any proof of service I find that I cannot rely on the evidence package of the Tenant. I do note however that this package offers no evidence of any details regarding late rent payments.

I am satisfied that the Landlord has properly served the one month notice to end tenancy for repeated late rent payments on October 20, 2010 by personal service. Unfortunately, this notice shows an end of tenancy date of November 2, 2010.

I am also satisfied that both parties served the other with the hearing documents with proper service. The Tenant's proof of service by registered mail on October 22, 2010 and the Landlord by posting it on the Tenant's door on November 3, 2010.

The Landlord has provided evidence of repeated late rent payments for August, September and October. As such I find that the Landlord has established a claim to end the tenancy for repeated late rent payments. I dismiss the Tenant's application to cancel the notice to end tenancy for cause. I grant the Landlord's application for an order of possession. 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.

With no evidence to support their claim, I dismiss the Tenants application for action sought to make repairs to the unit.

As the Tenancy has not yet expired, I dismiss the Landlord's claim on the \$100.00 security deposit at this time. Leave to reapply in the future is given for the security deposit.

The Landlord has established a monetary claim for unpaid rent of \$600.00. The Landlord is also entitled to recovery of the \$50.00 filing fee. I grant the Landlord an order under section 67 for the unpaid November rent of \$600.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Landlord is granted an order of possession.

The Landlord is granted a monetary order for \$650.00.

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: November 19, 2010.

Dispute Resolution Officer