



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNE, MN, OPR, MNR, FF

Introduction

This was the hearing of applications by the tenants and by the landlord. The tenants applied to cancel a Notice to End Tenancy for end of employment and for a monetary order in an unspecified amount. The landlord applied against one tenant for a monetary order and an order for possession pursuant to a 10 day Notice to End Tenancy for unpaid rent. The hearing was conducted by conference call. The tenant K.M. participated in the hearing. The landlord was represented by the named individuals. At the commencement of the hearing the tenant requested an adjournment of the hearing because the other tenant was not available to attend the hearing. I declined to grant the adjournment because I decided that an adjournment would be prejudicial to the landlord and because the tenant did not provide any convincing reason why she could not address the issues on the applications.

Issues(s) to be Decided

Should the 10 day Notice to End Tenancy be cancelled?

Is the landlord entitled to an order for possession?

Is the landlord entitled to a monetary order and if so, in what amount?

Background and Evidence

The rental unit is an apartment in Campbell River. The tenant testified that she and her partner were hired as employees by the landlord to perform work on the apartments in the rental property. The male tenant was hired to install laminate flooring.

The tenant testified that they moved to Campbell River on August 15, 2010 to work for the landlord. She said that she made an agreement with the landlord's manager, R.O. to rent the subject apartment at a reduced rent of \$450.00 beginning in September. She referred to a shelter information form dated August 24, 2010 as evidence of the tenancy. She referred to the attached rent receipt whereby the manager, R.O. acknowledged receipt of rent in the amount of \$450.00 and a security deposit of \$225.00. She said that a tenancy agreement dated August 25, 2010 between the landlord and the male tenant alone was "falsified" and was made by agreement between the landlord and the male tenant to deprive her of her tenancy and to force her out of the rental unit. She said that she did not pay rent of \$450.00 for October because the landlord has not paid her or her co-tenant for work performed for the landlord.

The landlord's representative denied that the tenants are or were employees of the landlord. He said they were hired on a contract basis to install laminate flooring and they have been paid pursuant to invoices rendered to the landlord. According to the landlord the shelter information form was completed so that the tenant K.M. could obtain her portion of rent from the Ministry of Housing and Social Development. According to the landlord's representative the landlord did not receive payment of rent in the amount of \$450.00 and it was not until September 23, 2010 that the landlord received payment of the sum of \$225.00 from the Ministry.

The landlord served the tenants with a 10 day Notice to End Tenancy for unpaid rent on October 3, 2010. The notice was handed to the tenant, K.M.

Analysis and conclusion

The tenant acknowledged that rent has not been paid after September. She said that this was because the landlord has not paid the tenants for work performed. I make no finding with respect to any contractual or employment relationship between the landlord and the tenants. I was told that the tenants are pursuing a claim against the landlord for unpaid wages through the Employment Standards Branch.

The landlord requested an order for possession and claimed a monetary order against the tenant D.B.M. in the amount of \$1,875.00.

The tenants have not disputed the 10 day Notice to End Tenancy. They applied to dispute a Notice to End Tenancy for end of employment although no such notice has been given. The tenant acknowledged that there is unpaid rent. The tenants have not disputed the 10 day Notice to End Tenancy and they are therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. Based on these facts I find that the landlord is entitled to an order for possession effective two days after service on the tenants. This order may be registered in the Supreme Court and enforced as an order of that court.

I accept the testimony of the landlord's representative that payment of \$225.00 was received on September 23, 2010 and no other payments have been made. I find that apart from the sum of \$225.00 as a deposit, the landlord has not been paid any amounts for rent. I find that there is a valid tenancy agreement between the landlord and the tenant, D.B.M. The tenant K.M. acknowledged that the agreement was signed by D.B.M. Because the tenancy has ended there is no basis for the landlord's claim for payment of security and pet deposits. I allow the landlord's claim against D.B.M. for unpaid rent for September and October. I order that the landlord retain the security deposit of \$225.00 in partial satisfaction of the award. The landlord is entitled to recover the \$50.00 filing fee paid for its application and I grant the landlord an order under section 67 in the amount of \$1,225.00. This order may be registered in the Small Claims Court and enforced as an order of that court.

The tenants' application is dismissed.