



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes:

CNC, DRI, OPC, MNDC, FF

Introduction

Both parties were present at the hearing; the landlord attended at the scheduled start time. The tenant entered the conference call 4 minutes after the start of the hearing, at which point I reviewed the details of the hearing up to that time.

After the tenant entered the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing.

Preliminary Matter

The landlord submitted a monetary claim for unpaid rent and lock replacement charges. As the landlord has not yet suffered any loss related to the locks, that portion of his application was premature and not considered.

Issue(s) to be Decided

Is the tenant entitled to more time to cancel a 1 Month Notice ending tenancy for cause issued on November 16, 2010?

Has the landlord given the tenant an illegal rent increase?

Is the landlord entitled to a monetary Order for unpaid January, 2011, rent in the sum of \$210.00?

Is the landlord entitled to filing fee costs?

Background and Evidence

The tenancy commenced in 2004 and rent is due on the first day of each month.

The landlord and the tenant agreed that on November 16, 2010, a 1 Month Notice to End Tenancy for Cause was personally served to the tenant indicating that the tenant was required to vacate the rental unit on December 31, 2010.

The reasons stated for the Notice to End Tenancy were that the tenant has put the landlord's property at significant risk; that the tenant has engaged in illegal activity that has, or is likely to, adversely affect the quiet enjoyment, security, safety or well-being of another occupant; that the tenant has engaged in illegal activity that has, or is likely to, jeopardize a lawful right or interest of another occupant or the landlord.

The tenant submitted her application to cancel the Notice 43 days after receiving the Notice from the landlord. The tenant provided affirmed testimony that she had been too ill to submit her Application within the 10 days required by the Act. The tenant had been in bed for 3 days and was not aware of the ability to submit her application via on-line services.

The tenant also stated that she had not applied to cancel the notice within 10 days as she had been seeking alternate accommodation and could not find any rental that would allow her to take her cats. The tenant stated she had submitted her application in order to create a delay so that she could be provided more time to locate alternate accommodation. The tenant did not provide any evidence supporting her claim that she had been so ill for a period exceeding 10 days after November 16, 2010, that she was rendered unable to submit her application.

The tenant stated she is the only person in the building that has been given 3 rental increases over the past 5 years. During the hearing the landlord and tenant both agreed that her current rent is \$710.00 and that the tenant owed the landlord a balance in the sum of \$210.00 for January, 2011, rent owed. No evidence was submitted supporting a rent increase made that did not comply with the Act.

During the hearing the landlord acknowledged he would allow the tenant until 1 p.m. on February 1, 2011, to vacate the rental unit. The tenant acknowledged that she would move out by that date. The parties were provided with a review of the steps required at the end of tenancy in relation to condition inspection and the deposit.

Analysis

The parties agreed that the tenant received the Notice on November 16, 2010. The Notice was effective December 31, 2010.

The Notice indicated that the tenant had 10 days to submit an application disputing the Notice and that the tenant must be prepared to show compelling and serious reasons for not filing the application on time. During the hearing the tenant was informed that she had not provided me with any compelling evidence in support of her request for more time to apply to cancel the Notice. I found that the tenant's reason for delay was more likely than not related to her failure to locate new accommodation and I have accepted her testimony that she submitted her application in order to obtain a delay in the eviction process. Therefore, the tenant's application requesting more time to apply to cancel the Notice ending tenancy is dismissed.

Therefore, I find that the landlord is entitled to an Order of possession effective February 1, 2011, at 1 p.m., by agreement of the landlord.

Based on the agreement between the parties that rent is \$710.00 per month and that the tenant has paid \$500.00 owed toward January, 2011, rent, I find that the tenant has

not paid rent in the amount of \$210.00 for January 2011, and that the landlord is entitled to compensation in that amount.

The tenant's claim disputing an illegal rent increase is dismissed as no evidence was submitted in support of this portion of the application. Further, the tenant agreed that rent owed is currently \$710.00 per month.

I find that the landlord's application has merit and that the landlord is entitled to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

Conclusion

The landlord has been granted an Order of Possession that is effective 1 p.m. on February 1, 2011. This Order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim, in the amount of \$260.00, which is comprised of \$210.00 in unpaid January, 2011, rent and \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution.

Based on these determinations I grant the landlord a monetary Order in the sum of \$260.00. In the event that the tenant does not comply with this Order, it may be served on the tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Dated: January 20, 2011.

Residential Tenancy Branch