



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes CNR, OLC

Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution, seeking an order to cancel a 10 day Notice to End Tenancy for unpaid rent and an order for the Landlord to comply with the Act or tenancy agreement.

Both parties 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.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Should the 10 day Notice to End Tenancy for unpaid rent be cancelled or is it valid?

Background and Evidence

This tenancy began on December 1, 2010, with the parties entering into a written tenancy agreement. The rent was set at \$700.00 per month, payable on the first day of the month, and the Tenant was to pay a security deposit of \$350.00. The Tenant was allowed to occupy the rental unit on November 28, 2010.

The evidence of the Landlord was that the Tenant paid \$160.00 towards the security deposit on November 29, 2010. The Tenant still owes the Landlord a balance of \$190.00, at the time of this hearing.

In late December of 2010 the Tenant provided the Landlord with a cheque for January 2011 rent. The Tenant called the Landlord and requested that he not cash the rent

cheque until January 4, 2011. On January 4, 2011, the Tenant called the Landlord and requested more time to pay the January rent.

On January 10, 2011, the Landlord served the Tenant with a 10 day Notice to End Tenancy for unpaid rent.

On January 11, 2011, the Tenant made a partial payment of \$100.00 towards the rent. The Tenant informed the Landlord he would pay the balance of rent the next day. As of the date of this hearing the Tenant still owes the Landlord the balance of January rent.

On January 13, 2011, the Landlord appointed two Agents for the tenancy and informed the Tenant of this.

The Agents went by the rental unit several times over the next few days and left messages for the Tenant.

On January 17, 2011, the Tenant called the Agents and informed them he would pay them the rent on the 18th. On the 18th, the Tenant phoned the Agents and informed them he sent the rent money in the mail.

On January 21, 2011, the Agents received the mail from the Tenant which contained the Tenant's Application for Dispute Resolution disputing the 10 day Notice to End Tenancy. The mail did not contain the rent for January.

On January 26, 2011, the Tenant informed the Agents that he sent them a money order for the rent payment. The Tenant testified that this was returned in the mail to him on January 28, 2011. On January 31, 2011, the Tenant told the Agents he would pay the balance of the January rent and the utility bills to them on February 1, 2011.

As of the date of this hearing, the Tenant has not paid the balance of the January rent, the February rent or the utility bills.

In his Application, the Tenant states that the Landlord has gone on vacation and did not leave him contact numbers or persons to contact to pay the rent.

During the hearing the Tenant testified that he is going to pay the Agents the rent and is moving out of the rental unit on March 1, 2011.

Analysis

Based on the above, the evidence and testimony, and on a balance of probabilities, I find that the 10 day Notice to End Tenancy is valid and should not be cancelled. I dismiss the Application of the Tenant.

I find that the Tenant lacks credibility and is simply evading payment of rent. His testimony and evidence during the hearing was contradictory and lacked consistency. He attempted to continue to argue that he had no address for the Landlord or the Agents, despite having had many conversations with the Landlord and the Agents. He served the Agents with the Application at the same address that the Landlord has on the Notice to End Tenancy and on the tenancy agreement.

When the Tenant's Application was dismissed, the Agents for the Landlord requested an order of possession. Section 55 of the Act requires that I must grant that request.

Therefore, I grant the Landlord an order of possession effective two days after service upon the Tenant. This order may be enforced through the Supreme Court of British Columbia.

The Landlord has leave to apply for monetary orders against the Tenant, which may include the cost of enforcing the order of possession, as well as rent and the other applicable amounts due.

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: February 03, 2011.

Residential Tenancy Branch