



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MT, CNR, MNSD, O, OPR, MNR, FF,

Introduction

This was the hearing of applications by the tenant and by the landlord. The tenant applied to cancel a Notice to End Tenancy for unpaid rent, for more time to dispute the Notice to End Tenancy. The landlord applied for an order for possession and a monetary order. The hearing was conducted by conference call. The landlord participated as did his wife, J.P. who also testified at the hearing. The tenant attended with his partner, T.W. The tenant and T.W. testified at the hearing.

Issue(s) to be Decided

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 a single family house in Abbotsford. The tenancy began on May 1, 2009. Monthly rent is \$1,450.00 payable on the first of each month. The tenant paid a security deposit of \$725.00 on April 8, 2009.

The tenant did not pay rent for January, 2011. On January 2, 2011 the landlord served the tenant with a 10 day Notice to End Tenancy for unpaid rent. The Notice was handed to the tenant.

The tenant filed an application for dispute resolution on January 6, 2011. He applied to cancel the landlord's Notice to End Tenancy; he requested the return of his security deposit and he asked for other unspecified relief. The tenant claimed that the landlord has "verbally assaulted" him by yelling at him. The tenant testified that the landlord has yelled and sworn at the tenant at the rental unit in front of his children on several occasions. The tenant testified that he is experiencing financial hardship and is not able to pay the rent. He said that he intends to pay the rent, but he intends to move because of the landlord's conduct towards him.

The landlord and his wife testified that he has not yelled at the tenant. The landlord's wife said that she has had most of the dealing with the tenants and she has been present on the occasions when her husband has spoken to the tenant. She said that he has not yelled at or sworn at the tenant on either occasion.

Analysis and conclusion

The tenant failed to pay rent for January on the first of January. The landlord personally served the tenant with a 10 day Notice to End Tenancy on January 2, 2011. The tenant's obligation to pay rent continues, whether or not the landlord may have yelled at him, and I make no finding on this point. The tenant did not pay the outstanding rent within five days of receiving the 10 day Notice to End Tenancy and the tenant has not presented any valid reason why the Notice to End Tenancy should be cancelled. The tenant's application to cancel the Notice is denied, as is the tenant's claim for payment of the security deposit; there is no ground for the tenant's claim for the return of the deposit before the end of the tenancy and the tenant's application for dispute resolution is dismissed without leave to reapply. The landlord has applied for an order for possession pursuant to the Notice to End Tenancy.

Based on the above 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 filed in the Supreme Court and enforced as an Order of that Court.

I find that the landlord has established a claim for unpaid rent totalling \$1,450.00 for the month of January, 2010. The landlord is entitled to recover the \$50.00 filing fee for this application for a total claim of \$1,500.00. I order that the landlord retain the deposit and interest of \$725.00 and I grant the landlord an order under section 67 for the balance due of \$775.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated: January 24, 2011.
