

DECISION

Dispute Codes CNR

Introduction

This hearing was convened by way of conference call to deal with the tenant's application for an order cancelling a notice to end tenancy for unpaid rent or utilities.

The landlord and the tenant both attended the conference call hearing, gave affirmed testimony, and were given the opportunity to cross examine each other on their evidence. All information and testimony provided has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Is the tenant entitled to an order cancelling a notice to end tenancy issued for unpaid rent or utilities?

Background and Evidence

This month-to-month tenancy began on January 1, 2011. Rent in the amount of \$700.00 per month is payable in advance on the 1st day of each month. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$350.00.

The landlord testified that the tenant paid \$400.00 for rent in January, and then the Ministry sent him \$600.00 on February 25, 2011 for rent for the month of March, 2011. The landlord did not receive any rent money in February, 2011 and the tenant still owes \$300.00 for January as well as \$100.00 for March and \$700.00 for February, for a total of \$1,100.00.

The landlord further testified that he issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on March 7, 2011 and served it to the tenant personally the same day. A copy of the notice was provided by the tenant in advance of the hearing, and it states that the tenant failed to pay rent in the amount of \$1,100.00 that was due on March 1, 2011 and contains an expected date of vacancy of March 17, 2011.

The landlord requests an Order of Possession and stated that he would be agreeable to an effective date of March 30, 2011.

The tenant testified that she does not have the rent money and has no place to go; her husband has been incarcerated and she has no one to help her move. She further stated that she did receive the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on March 7, 2011 as testified by the landlord.

Analysis

The *Residential Tenancy Act* states that a tenant must pay rent when it is due, and if the tenant fails to do so the landlord may issue a notice to end the tenancy. Once served, the tenant has 5 days to pay the rent in full or apply for dispute resolution to dispute the notice. If the tenant does neither, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must move out of the rental unit by that date. In the circumstances, I find that the tenant was served with the notice to end tenancy on March 7, 2011 and filed for dispute resolution on March 8, 2011. The tenant has not paid the rent, and agrees that the arrears are \$1,100.00. Based on those facts, I find that the landlord is entitled to an Order of Possession, and I make that order effective March 30, 2011 at 1:00 p.m. as agreed by the landlord. 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.

Conclusion

I hereby grant an Order of Possession in favour of the landlord effective March 30, 2011 at 1:00 p.m.

The tenant's application for an order cancelling the notice to end tenancy is hereby dismissed without leave to reapply.

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: March 24, 2011.

Residential Tenancy Branch