

Decision

Dispute Codes: CNC, RR

Introduction

A hearing was previously convened on February 18, 2011, in response to the tenant's application for cancellation of a notice to end tenancy for cause, and permission to reduce rent for repairs, services or facilities agreed upon but not provided. The tenant was not present at that hearing, and a decision and order of possession in favour of the landlord were issued on February 18, 2011.

Subsequently, on March 3, 2011 the tenant filed an application for review on grounds that she was unable to attend the original hearing because of circumstances that could not be anticipated and were beyond her control. The tenant's application was granted, and the original decision and order were "set aside pending a Review Hearing."

Both parties attended this review hearing and gave affirmed testimony.

Issues to be decided

- Whether the tenant is entitled to either or both of the above under the Act

Background and Evidence

Pursuant to a written tenancy agreement, the month-to-month tenancy began on November 1, 2010. Monthly rent is \$800.00, and a security deposit of \$400.00 was collected.

The landlord issued a 1 month notice to end tenancy for cause dated January 28, 2011. A copy of the notice was submitted into evidence. The reason shown on the notice for its issuance is as follows:

Rental unit/site must be vacated to comply with a government order

Thereafter, on February 4, 2011 the tenant filed an application to dispute the notice.

It appears that the landlord's notice was the result of notification he received from the "Permit License & Inspection Services" section of a local government authority. In the notification, the local government authority instructed the landlord to the effect that "unauthorized suites" must be removed.

During the hearing the tenant testified that she has now made arrangements to vacate the unit on Saturday, April 2, 2011. In the result, she has withdrawn her application to have the notice to end tenancy set aside.

The remaining aspect of the application concerns whether the tenant is entitled to a reduction in rent. It appears that there may have been a conversation between the parties pursuant to which the landlord agreed to reduce the rent by \$50.00 per month for each of November & December 2009, and January 2010, if the tenant proceeded to hook up a satellite dish. However, on this matter the parties gave conflicting and confusing testimony. In any event, at the time of this hearing, the tenant indicated that she was withdrawing this aspect of her claim and, instead, she seeks compensation for costs associated with moving into the unit, and moving out of the unit. The tenant claimed that she is entitled to moving costs in view of what she considers was the landlord's awareness that the unit was illegal at the time when he rented it to her.

Analysis

Based on the documentary evidence and testimony of the parties, I find that the tenant withdrew her application to have the notice to end tenancy set aside. I also find that the tenant withdrew her application for a reduction in rent. Further, it appears there is no dispute that rent has been paid in full to the end of March 2011.

As to the revision of her application to seek moving costs, as described in the hearing, the tenant did not amend her original application to reflect what is now effectively an application for a monetary order as compensation for damage or loss under the Act, regulation or tenancy agreement. The tenant has the option to file such an application.

The parties are left to resolve the disposition of the tenant's security deposit at the end of tenancy, and more information can be obtained from a Branch Information Officer.

Conclusion

The decision and order dated February 18, 2011 are hereby set aside, and for the reasons set out above, the tenant's application is hereby dismissed.

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*.

DATE: March 31, 2011

Residential Tenancy Branch

