

Decision

Dispute Codes: CNR

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to cancel a Ten-Day Notice to End Tenancy for Unpaid Rent dated March 2, 2011 and effective March 14, 2011. The tenant had also requested an order to cancel a One Month Notice to End Tenancy for Cause dated January 31, 2011.

Both the landlord and the tenant appeared and each gave testimony in turn.

Issue(s) to be Decided

The issues to be determined based on the testimony and the evidence are:

- Whether the landlord's issuance of the Ten-Day Notice to End Tenancy for Unpaid was warranted. The questions to be answered include:
 - Did the tenant violate the Act by failing to pay rent when rent was due?
 - Did the tenant have a valid reason under the Act not to pay the rental amount in full?
 - Did the tenant pay the rent in full within 5 days of receiving the Notice to End Tenancy?

The burden of proof is on the landlord/respondent to justify the reason for the Ten-Day Notice.

Background and Evidence

Submitted into evidence was a copy of the Ten-Day Notice to End Tenancy dated March 2, 2011, a copy of the One Month Notice to End Tenancy for Cause, a copy of the tenancy agreement, copies of communications and reports, a copy of a Notice of Rent Increase, and a copy of the tenant's ledger.

The tenancy began in July 2009 and the rent is currently \$980.00 per month. A deposit of \$475.00 was paid. The tenant acknowledged that rent was not paid as he was in the hospital.

The landlord testified that the tenant was in arrears for two months and now owed \$1,980.00. The landlord requested an order of possession.

Analysis

Section 26 of the Act states that rent must be paid when it is due, whether or not the landlord complies with the Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

Given the testimony of the parties, I find that the tenant did not pay the rent when rent was due, and did not pay arrears within 5 days of receiving the Notice to End Tenancy for Unpaid Rent. Accordingly, I find the tenant's application requesting an order to cancel the Ten-Day Notice must be dismissed.

A mediated discussion ensued and the parties agreed that an Order of Possession would be issued to the landlord effective March 29, 2011.

Conclusion

Based on the evidence, I hereby issue an Order of Possession in favour of the landlord effective March 29, 2011 at 1:00 p.m. which must be served on the tenant. 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.

The tenant's application is hereby dismissed without leave.

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 2011.

Residential Tenancy Branch