



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: **Landlord:** OPR, OPC, MNR, MNSD and FF
 Tenant: CNR, CNC, OLC, RR and FF

Introduction

These applications were brought by both the landlord and the tenants.

By application received March 24, 2011, the landlord seeks an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent served on March 16, 2011 and a Notice to End Tenancy for cause served on March 22, 2011. The landlord also sought a Monetary Order for unpaid rent, recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off.

By application of March 18, 2011, the tenants seek to have both Notices to End Tenancy set aside, an Order that the landlord comply with the legislation and /or rental agreement, a rent reduction and recovery of the filing fee for this proceeding.

Issues to be Decided

These applications require decisions on whether the Notices to End Tenancy should be set aside or upheld with an Order of Possession, the monetary entitlements of both parties, and the whether the orders sought by the tenants are warranted.

Background, Evidence and Analysis

This tenancy began on December 1, 2010 according to the rental agreement although the parties agree that the tenants took possession on December 17, 2010. Rent is \$1,050 per month plus the parties entered into a separate agreement under which the tenants rented furnishings from the landlord for \$150 per month. The landlord holds a security deposit of \$525 paid on November 15, 2010.

During the hearing the parties gave evidence that the March rent had been paid on March 18, 2010, two days after the Notice to End Tenancy for unpaid rent had been served. Therefore, that notice is extinguished by section 46(4) of the *Act* and it is set aside.

As to the Notice to End Tenancy for cause, the landlord gave evidence that the tenants have been paying the rent on the 18th of each month since the tenancy began, including January, February, March and April of 2011 in spite of him asking them to pay on the first of the month as specified in the rental agreement.

The tenants stated that they had a verbal agreement with the landlord's son and that he had said it was "no problem" if they paid on the 18th.

Both the landlord and his son vigorously argued that they had made no such verbal agreement.

Given the diametrically opposed views of the parties as to the claimed verbal agreement, I must rely on the written rental agreement and find that the rent was due on the first of the month.

Having so found, I must find that the tenants have been repeatedly late paying the rent and the Notice to End Tenancy of March 22, 2011 is lawful and valid. Therefore, I find that the landlord is entitled to an Order of Possession to take effect at 1 p.m. on April 30, 2011.

Having reached that point in the hearing, I had found it impossible to communicate with the parties on other matters as both spoke unceasingly over me and one another and either didn't hear or chose to ignore my repeated pleadings for decorum. In one brief pause after many minutes, I was able to advise the parties that if any of them interrupted me or another party once more, I would be forced to conclude the hearing under item 8.7 of the *Rules of Procedure*, "Interruptions and inappropriate behaviour.". In a few short seconds, I found it necessary to do so and concluded the hearing at 30 minutes.

Clearly, it is in the best interest of all parties that the end of this tenancy is imminent.

I grant leave to the parties to reapply on the few minor issues that could not be resolved at the hearing. However, I do so with the caution that if they are unable to moderate their own conduct, they might wish to engage advocates to assist them in presenting factual evidence in support of any such application.

Conclusion

The landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, to take effect at 1 p.m. on April 30, 2011.

All other claims which may remain outstanding at the conclusion of the tenancy are dismissed with leave to reapply.

April 8, 2011