



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an application by the tenant to cancel a notice to end tenancy for cause. Both parties participated in the conference call hearing.

Issue(s) to be Decided

Is the tenant entitled to any of the above under the Act.

Background and Evidence

This tenancy began May 2007 with monthly rent of \$765.00.

On May 4, 2011 the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause: the tenant is repeatedly late paying rent.

The landlord testified that the tenant has been repeatedly late paying rent throughout the past 18 months and warned numerous times that continued late payments would result in a notice to end tenancy. The landlord stated that the tenant paid the rent late April thru August 2010, November 2010 thru January 2011 and May 2011 and that many of these payments were late due to the tenants rent cheque being returned NSF.

The landlord stated that in August 2010 the tenant was given a warning letter for late rent. On January 25, 2011 the landlord served the tenant with a 1 month notice to end tenancy for cause for repeated late payment of rent but rescinded the notice based on the tenant agreeing to pay future rent on time and by money order. The tenant's May 2011 rent was not paid until May 4th which resulted in the issuance of this notice.

The tenant stated that her May 2011 rent had been late as she had offered to give the landlord a cheque but was told no, the agreement was for the tenant to pay by money order. The tenant stated she then had to wait until the following day to get to the bank and obtain a money order.

The tenant asked the landlord if the tenancy could continue if the tenant made her rent payments by direct deposit. The landlord stated that as so many of the tenants rents payments were NSF, direct deposit would not make a difference in the rent being on time.

The tenant offered to move to a smaller unit with lower rent but the landlord declined the tenant's offer. The landlord stated that she could not make the decision to continue the tenancy in this hearing however the parties may discuss the matter outside of this hearing.

The landlord in this hearing, per section 55 (1) (a) of the *Act* verbally requested an order of possession with an end of tenancy date of July 31, 2011 to allow the tenant time to find alternate housing.

Analysis

Based on the documentary evidence and testimony of the parties, I find on a balance of probabilities that the landlord has met the burden of proving that they have grounds to have the notice to end tenancy for cause upheld and are entitlement to an order of possession.

Residential Tenancy Policy Guideline 38 Repeated late payment of rent speaks to:

Three late payments are the minimum number sufficient to justify a notice under these provisions.

It does not matter whether the late payments were consecutive or whether one or more rent payments have been made on time between the late payments.

The tenant in this application has paid the rent late 8 times in the past 12 months which more than adequately justifies the notice being given to the tenant by the landlord and enforcement of that notice.

The tenant's application is hereby dismissed without leave to reapply with the resulting effect that the tenancy will end on July 31, 2011 at 1:00 PM.

Conclusion

I hereby grant the landlord an **Order of Possession** effective not later than **1:00 PM, July 31, 2011**. This Order must be served on the tenant and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

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: June 3, 2011.

Residential Tenancy Branch