



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNR, MNDC

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* for an order to set aside the notice to end tenancy for unpaid rent. The tenant also applied for compensation for loss under the *Act* and to be reimbursed \$84.00 for bank charges.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Issues to be decided

Does the landlord have reason to end the tenancy or should the notice to end tenancy be set aside and the tenancy be allowed to continue? Is the tenant entitled to his claim for a monetary order for compensation?

Background and Evidence

The tenancy started on May 15, 2011. The landlord is a charitable organisation and subsidizes the rent for tenants who qualify for the subsidy. The monthly rent is \$1,000.00 plus \$23.00 for cable due in advance on the first day of the month. The tenant's portion of the rent is \$550.00 plus \$23.00 for cable.

The tenant stated that the landlord attempted to cash two of his cheques prior to the date they were written for. Both cheques were returned for insufficient funds. The landlord agreed that the cheques were cashed in error. The tenant stated that the bank charged him \$84.00 in fees for the returned cheques and he wanted the landlord to reimburse this amount. The tenant did not file any evidence to support this claim.

The tenant also stated that on two occasions, the property manager came into the rental unit unannounced, by using his key. The property manager denied this allegation and stated that he knocked on the door and the tenant's sister opened the door. The tenant was not present in the unit at that time and did not have his sister testify for him. The tenant is claiming \$400.00 as compensation for the landlord's actions of entering the unit without appropriate notice.

The tenant paid outstanding rent plus rent for June on June 01, 2011 by cheque. This cheque was returned for insufficient funds. On June 02, 2011 the landlord served the tenant with a notice to end tenancy. This notice lacked vital information and therefore the landlord served a second notice on June 15, 2011. The tenant also attempted to pay rent for July with a cheque that was returned for lack of funds. Both parties agreed that the amount of unpaid rent owed to the landlord, at the time of this hearing was \$1,100.00.

Analysis

Based on the sworn testimony of both parties, I find that the tenant received the notice to end tenancy for unpaid rent, on June 15, 2010 and did not pay rent within five days of receiving the notice to end tenancy and the time to do so has expired. In these situations, the *Residential Tenancy Act* provides that the tenant has been deemed to have accepted the end of the tenancy, on the date set out in the Notice and must vacate the rental unit by that date. Accordingly, the notice to end tenancy is upheld and therefore the tenant's application to cancel the notice is dismissed.

During the hearing the landlord made a request under section 55 of the legislation for an order of possession effective two days after service on the tenant. Under the provisions of section 55(1), upon the request of a landlord, I must issue an order of possession when I have upheld a notice to end tenancy. Accordingly, I so order. 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.

The tenant has not filed any evidence to support his claim for compensation. Therefore his claim for a monetary order is dismissed.

Conclusion

The notice to end tenancy is upheld and I grant the landlord an order of possession effective two days after service on the tenant.

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: July 06, 2011.

Residential Tenancy Branch