

Decision

Dispute Codes: CNR, OLC

Introduction

This hearing was convened in response to an application by the tenants for cancellation of a notice to end tenancy for unpaid rent or utilities / and an order instructing the landlord to comply with the Act, Regulation of tenancy agreement. Both parties participated in the hearing and gave affirmed testimony.

Issues to be decided

- Whether the tenants are entitled to the above under the Act, Regulation or tenancy agreement

Background and Evidence

There is no written tenancy agreement in evidence for this month-to-month tenancy which began on or about May 15, 2011. Monthly rent of \$700.00 is paid directly to the landlord by the Ministry. It is unclear whether a security deposit was collected.

Arising from rent which the landlord claims was unpaid for June in the amount of \$112.50, and for July in the amount of \$75.00 (total: \$187.50), the landlord issued a 10 day notice to end tenancy for unpaid rent dated July 22, 2011. The notice was served in person on the tenants on that same date. A copy of the notice was submitted into evidence. The tenants dispute that the rent is overdue. Additionally, it is unclear what further payments were made toward rent after the 10 day notice was issued. The tenants filed their application to dispute the notice on July 29, 2011, which is outside of the 5 day period permitted for filing an application after service of a 10 day notice.

During the hearing the parties exchanged views on some of the circumstances surrounding the dispute and undertook to achieve at least a partial resolution.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Section 63 of the Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the parties during the hearing led to a partial resolution. Specifically, it was agreed as follows:

- that the tenants will vacate the unit by not later than 1:00 p.m., Monday, October 31, 2011, and that an order of possession will be issued in favour of the landlord to that effect;
- that the parties will undertake to resolve between them any dispute around whether there is still rent overdue and, if there is, how it is calculated and how much it totals;
- that the above particulars comprise full and final settlement of all aspects of the dispute for both parties, which arise out of this tenancy and which are presently before me.

Conclusion

I hereby issue an order of possession in favour of the landlord effective not later than 1:00 p.m., Monday, October 31, 2011. This order must be served on the tenants. Should the tenants 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.

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: August 30, 2011

Residential Tenancy Branch