



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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 August 3, 2011 and effective August 13, 2011.

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

Issue(s) to be Decided

The issues to be determined based on the testimony and the evidence is whether the landlord's issuance of the Ten-Day Notice to End Tenancy for Unpaid was warranted. The burden of proof is on the landlord/respondent to justify the reason for the Ten-Day Notice.

Background and Evidence

Submitted into evidence by the applicant/tenant in support the application was, a copy of the Ten-Day Notice to End Tenancy dated August 3, 2011.

The landlord testified that the tenancy began on June 1, 2011 and rent is \$980.00 per month. A security deposit of \$490.00 was paid. The landlord testified that the tenant did not pay rent for the month of August 2011 and a Ten Day Notice to End Tenancy for Unpaid Rent was issued. The landlord stated that the tenant has not paid these arrears and has also failed to pay rent for September properly due on September 1, 2011.

The tenant acknowledged receiving the notice and did not dispute that the rent was not paid. The tenant testified that this was due to losing her room-mate.

Analysis – Notice to End Tenancy

Section 26 of the Act states that rent must be paid when it is due, under the tenancy agreement, whether or not the landlord complies with this 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, nor did the tenant pay the arrears within 5 days of receiving the Notice to end Tenancy for Unpaid Rent, which would have functioned to cancel the Notice.

Accordingly, I must dismiss the tenant's application requesting an order to cancel the Ten-Day Notice. During the hearing the landlord made a request for an order of possession. Under the provisions of section 55(1) of the Act, upon the request of a landlord, I must issue an order of possession when I have dismissed a tenant's application to cancel and upheld a notice to end tenancy.

Conclusion

Based on the testimony and evidence discussed above, I hereby issue an Order of Possession in favour of the landlord effective two days after service to the tenant. 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's application is dismissed without leave to reapply.

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: September 09, 2011.

Residential Tenancy Branch