



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNR, RR

Introduction

This hearing was convened in response to an application by the tenant. On September 26, 2011 the tenant sought to:

- Cancel a 10 Day Notice to End Tenancy for Unpaid Rent (Notice) – Section 46
- To reduce rent for repairs, services or facilities agreed upon but not provided – Section 65

Both parties attended the hearing and were given full opportunity to present all relevant evidence and testimony in respect to their claims and to make prior submission to the hearing and fully participate in the conference call hearing. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present. The tenant withdrew their claim for a rent reduction, and this portion of their claim is preliminarily dismissed, with leave to reapply. At the outset of the hearing the landlord orally requested an Order of Possession.

The style of cause has been amended by consent of the parties to accurately reflect the relevant parties in this matter.

Issue(s) to be Decided

Is the Notice to End Tenancy valid?

Is the landlord entitled to an Order of Possession?

Background and Evidence

The parties' disputed testimony is that the tenant has not paid any rent which is payable for the last seven (7) months. The landlord claims the tenant owes rent arrears totalling over \$3200 and on September 20, 2011 the landlord served the tenant with a Notice to End Tenancy (NTE) for non-payment of rent which stated that as of September 01, 2011 the tenant owed \$2334. The landlord testified that the tenant has not paid any rent since the tenant was given the Notice to End.

The tenant testified that their rent is paid directly by the Ministry of Social Development (the Ministry) to the landlord, and that they have been paying the landlord directly all along. The tenant has not provided any evidence to support this assertion, but claims that they are able to obtain evidence if necessary. The landlord testified that since the

Notice to End was given to the tenant, the tenant has been unable to satisfy the landlord that the Ministry has indeed paid the tenant's rent.

Analysis

Based on the testimony of the parties, and on the preponderance of the evidence before me, I find that the tenant has not provided proof the outstanding rent has been paid; and, despite their application to dispute the Notice to End, they have no acceptable evidence upon which to dispute the landlord's entitlement to the rent. Therefore, I find that the tenant was served with a notice to end tenancy for non-payment of rent and I find that notice to be valid. As a result, the tenant's application to cancel the Notice to End for Unpaid rent dated September 20, 2011 **is dismissed**. The Notice is upheld.

Section 55 of the Act, in part, states as follows: **(emphasis for ease)**

Order of possession for the landlord

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director **must grant an order of possession of the rental unit to the landlord** if, at the time scheduled for the hearing,

- (a) the landlord makes an oral request for an order of possession,
and
- (b) the director dismisses the tenant's application or upholds the
landlord's notice.

Based on the above facts I find that the landlord is entitled to an Order of Possession.

Conclusion

I grant an Order of Possession to the landlord **effective 2 days from the day it is served on the tenant**. The landlord is being given this Order. The tenant must be served with this 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.

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: October 26, 2011

Residential Tenancy Branch