



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes Landlord: OPR, MNR, MNSD, MNDC
 Tenants: DRI, CNR, CNC

Introduction

This hearing dealt with cross Applications for Dispute Resolution. The landlord sought an order of possession and a monetary order. The tenants sought to cancel two notices to end tenancy and to dispute a rent increase.

The hearing was conducted via teleconference and was attended by the landlord, his interpreter and the male tenant.

The tenant clarified that he was not disputing an additional rent increase. I accept an amendment to exclude that matter from the tenants' Application.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent; to a monetary order for unpaid rent; for all or part of the security deposit and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

It must also be decided if the tenants are entitled to cancel a 10 Day Notice to End Tenancy for Unpaid Rent and to cancel a 1 Month Notice to End Tenancy for Cause, pursuant to Sections 46 and 47 of the *Act*.

Background and Evidence

The tenancy began on April 1, 2006 as a month to month tenancy for a current monthly rent of \$835.00 due on the 1st of each month. The landlord testified he currently holds a security deposit of \$181.25.

The landlord provided a copy of a 10 Day Notice to End Tenancy for Unpaid Rent issued on October 2, 2011 with an effective date of October 12, 2011 for unpaid rent in the amount of \$420.00.

The tenant testified that he paid rent in full to the landlord on October 31, 2011 but that he had not paid the landlord the full rent on October 1, 2011 when it was due because the landlord had issued a 1 Month Notice to End Tenancy for Cause with an effective

date that was earlier than October 31, 2011 and he thought he was not responsible for rent for the whole month.

The landlord testified that the tenants had caused disturbances to other occupants in the building and that he had received complaints from the other tenants. He stated further the tenants had caused damage to the residential property from flooding and that the tenants obtained a pet but they have not paid the pet damage deposit as requested by the landlord.

The landlord has provided no supporting evidence or documentation of any of these claims.

Analysis

Section 47 of the *Act* allows a landlord to end a tenancy by giving notice to end the tenancy if one or more of the following applies:

- a) The tenant does not pay the security deposit or pet damage deposit within 30 days of the date it is required to be paid under the tenancy agreement;
- b) The tenant is repeatedly late paying rent;
- c) There are an unreasonable number of occupants in a rental unit;
- d) The tenant or a person permitted on the residential property by the tenant has
 - i. Significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
 - ii. Seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or
 - iii. Put the landlord's property at significant risk;
- e) The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that
 - i. Has caused or is likely to cause damage to the landlord's property,
 - ii. Has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or
 - iii. Has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- f) The tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to the rental unit or residential property;
- g) The tenant does not repair damage to the rental unit or other residential property, as required under section 32(3), within a reasonable time;
- h) The tenant
 - i. Has failed to comply with a material term, and
 - ii. Has not corrected the situation within a reasonable time after the landlord gives written notice to do so;
- i) The tenant purports to assign the tenancy agreement or sublet the rental unit without first obtaining the landlord's written consent as required by section 34;

- j) The tenant knowingly gives false information about the residential property to a prospective tenant or purchaser viewing the residential property;
- k) The rental unit must be vacated to comply with an order of a federal, British Columbia, regional or municipal government authority;
- l) The tenant has not complied with an order of the director within 30 days of the later of the following dates:
 - i. The date the tenant receives the order;
 - ii. The date specified in the order for the tenant to comply with the order.

As the landlord has provided no supporting evidence that the tenants gave rise to any cause to end the tenancy as allowed under Section 47, I grant this portion of the tenants' Application and cancel the 1 Month Notice to End Tenancy for Cause issued on September 27, 2011.

Section 46 allows a landlord to end a tenancy if rent is unpaid on any day after the day it is due by issuing the tenant a notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice. This Section goes on to say that within 5 days, after receiving the notice, the tenant may pay the overdue rent or file an Application for Dispute Resolution.

The tenants filed their Application for Dispute Resolution on October 7, 2011, within 5 days of receiving the Notice. I accept the tenants misunderstood their obligations to pay rent for the full month as the landlord had provided an incorrect effective date of the 1 Month Notice to End Tenancy for Cause. I also accept the rent has been paid in full.

For the reasons noted above, I grant this portion of the tenants' Application and cancel the 10 Day Notice to End Tenancy for Unpaid Rent issued on October 2, 2011.

Conclusion

As the I have found that both notices are cancelled and by the testimony of both parties there is no rent due to the landlord at this time, I dismiss the landlord's Application in its entirety. I also find the tenancy to be in full force and effect.

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: November 02, 2011.

Residential Tenancy Branch