



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Dispute Codes CNR, DRI, FF

Introduction

This hearing dealt with an application by the tenant seeking an order to set aside a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities and seeking to dispute an additional rent increase. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

Issues to be Decided

Is the tenant entitled to have the notice set aside?

Is the tenant entitled to have the rent reduced?

Background and Evidence

The tenancy began on or about February 1, 2009. Rent in the amount of \$895.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$447.50.

The tenant gave the following testimony; disputes that the rent is \$895.00, had a verbal agreement with the previous property manager that he pay \$835.00 a month for rent, always paid his rent in cash, rarely received receipts, often would offset his rent with doing repairs for the previous property manager, adamantly disputes that he owes any money to the new property managers.

The landlords agent gave the following testimony; took over as property manager on October 7, 2011, the previous property manager had recently passed away, the tenant failed to pay rent and portions of rent since March 2011 and is claiming \$4715.00 in unpaid rent.

Analysis

The tenant's explanation for the amount of unpaid rent was that he had a very friendly relationship with the previous property manager and stated that the previous property manager "wasn't great at keeping the books". The tenant is the applicant in this matter and has not provided any documentation that would help support his claim that he had an agreement to conduct work in exchange for his rent. The tenant advised he had "a lot of evidence at home", however did not submit it for this hearing. The tenant disputes the amount claimed by the landlord's agent for unpaid rent. The tenant does not dispute that he has not paid the rent for November; his explanation for this was that "If I'm getting thrown out there is no way that I'm going to pay the rent". He did advise that he has the rent money and is able to pay if the landlord would accept. The landlord did not.

As explained to the parties at the outset of the hearing the onus or burden of proof is on the party making the claim, in this case the tenant. Without other documentary evidence such as a tenancy agreement of the rate as claimed by the tenant or a written agreement for reduced rent for repairs conducted to support his claim, the tenant has failed to satisfy me of either, and as a result has not been successful in his application.

The landlord's agent submitted a signed tenancy agreement with the tenant's signature with the rental rate as claimed by the landlord's agent. The tenant did not dispute that he had signed it. I find that the tenant was served with a notice to end tenancy for non-payment of rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice. During the hearing the landlord made a verbal request for an order of possession. Based on the above facts I find that the landlord is entitled to an order of possession. 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.

Conclusion

The tenant's application is dismissed in its entirety without leave to reapply.

The landlord is entitled to an order of possession.

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 24, 2011.

Residential Tenancy Branch