



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, FF, MNR, RR,OPL

Introduction

This hearing dealt with cross applications. The landlord is seeking an order of possession and a monetary order. The tenant is seeking to have a Two Month Notice to End Tenancy for Landlord's Use of Property set aside, a monetary order, and an order to have a rent reduction. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

Issues to be Decided

Is either party entitled to any of the above under the Act, the regulations or the tenancy agreement?

Background and Evidence

The tenancy began on or about February 2003. Rent in the amount of \$1715.00 is payable in advance on the first day of each month.

The tenant gave the following testimony; was personally given the Two Month Notice to End Tenancy for Landlords' use of Property on October 25, 2011, seeks to recover \$488.79 for emergency repairs, seeks a rent reduction to allow the tenant to make some repairs in the rental unit and recover his filing fee.

The landlord is seeking a monetary order of \$4950.00 for damages caused by the tenant, an order of possession, recovery of his filing fee and feels the tenant's application should be dismissed because it is outside the allowable timelines as indicated under the Act.

Analysis

Both parties submitted documentary evidence for this hearing. Both parties supplied a copy of the same notice that clearly indicates that if a tenant does not agree with the Notice given by the landlord that they must apply within 15 days of receiving the Notice. In the tenant's own oral testimony he stated that he was personally served the Notice on October 25, 2011 but did not apply for Dispute Resolution until November 10, 2011, which is outside of the allowable timeline. When asked, the tenant stated that "I thought I had applied within 15 days and my intentions were sincere".

The tenant has not filed his dispute in accordance with the rules of procedure as required under the Act and as a result I dismiss the tenant's application in its entirety without leave to reapply.

The landlord made an application for a monetary order however the landlord is premature in this application as he has yet to undertake the work required and is unsure of the exact cost and as a result I dismiss this portion of the landlords' application with leave to reapply.

Based on the documentary evidence and the testimony at the hearing the landlord has satisfied me that he 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.

The landlord is also entitled to recovery of the \$50.00 filing fee. I grant the landlord an order under section 67 for the balance due of \$50.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

The Two Month Notice to End Tenancy for Landlord's Use of Property dated October 25, 2011 remains in full effect and force.

Conclusion

The landlord is granted an order of possession and a monetary order for \$50.00.

The tenant's application is dismissed in its entirety 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: November 29, 2011.

Residential Tenancy Branch