



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, CNC, LAT, FF, MNDC, OLC, RPP

Introduction

This hearing dealt with cross applications. The landlord is seeking an order of possession. The tenant is seeking to have a One Month Notice to End Tenancy for Cause set aside, seeking an order to have the landlord comply with the Act, seeking an order for the return of personal property, set conditions on the landlords right to enter the rental unit, authorize the tenant to change the locks and to recover the filing fee. 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 May 15, 2011. Rent in the amount of \$900.00 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 \$450.00.

The landlord gave the following testimony; the tenant has been repeatedly late in paying the rent since moving in, posted the Notice on October 30, 2011 on the tenant's door, the tenant did not apply within the 15 days allowed for dispute resolution, and is seeking an order of possession.

The tenant gave the following testimony; received the Notice at 9:30 p.m. on October 30, 2011, has a file box full of evidence to prove her case, has been extremely busy dealing with a matter involving her children in the Supreme Court, was seeking an adjournment of today's hearing, agreed that she was late in paying the rent but that it was due to an agreement between her and the landlord that would allow her to pay late.

Analysis

In the tenant's own testimony she received the Notice on October 30, 2011 at approximately 9:30pm. She applied for dispute resolution on November 18, 2011. When I pointed out that she had applied outside of the allowable timelines that are clearly stated on the Notice given to her, her response was "I thought based on the mode of delivery I was allowed a further three days plus the fifteen days". The tenant also added due to the ongoing stress with the Supreme Court matter she "didn't have the time to deal with this". The tenant referred to the "file box" full of evidence that would assist her for this hearing however the tenant was not unable to provide any justifiable reason for the late payments nor did she provide any documentary evidence for this hearing.

The tenant did not dispute the Notice in the timeframe allowed under the Act and has conclusively accepted that the tenancy is terminated.

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

The landlord bears the burden of proving the grounds for issuing a One Month Notice to End Tenancy for Cause. The landlord provided documented proof that the tenant has been late in paying the rent at least four times since moving in May 15, 2011. The landlord has been successful in their application.

The One Month Notice to End Tenancy for Cause dated October 30, 2011 with an effective date of November 30, 2011 remains in full effect and force. The tenancy is terminated.

The landlord has requested 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 landlord is granted an order of possession.

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: December 07, 2011.

Residential Tenancy Branch