



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF

Introduction

This hearing dealt with an application by the tenant seeking to have a One Month Notice to End Tenancy for Cause set aside and to recover the filing fee. 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 the recovery of the filing fee?

Background and Evidence

The tenancy began on or about October 1, 2002. Rent in the amount of \$623.00 is payable in advance on the first day of each month.

The landlord gave the following testimony; took over the property in April 2009, the tenant has paid the rent late for the months of January 2011- November 2011, was given verbal reminders by the office staff when the tenant came to pay the rent, was given a written warning in April 2011, and issued a notice on November 30, 2011.

The tenant gave the following testimony; acknowledges that his rent has been late eleven consecutive months but thought it wasn't a problem, he always pays his rent but sometimes forgets to drop it off, and feels the landlords are in a better position that he pays cash instead of by cheque.

Analysis

The tenant testified that he did receive occasional notices for paying the rent on the first but regarded them as reminders and not warnings.

The landlord bears the burden of proof when issuing a notice. The landlord submitted documentary evidence to support his claim that is indisputable. In the tenant's own testimony he confirmed his late payments without any reasonable explanation as to why. I find that the landlord had cause to issue a notice to end tenancy; as a result the One Month Notice to End Tenancy for Cause issued November 30, 2011 remains in full effect and force.

The landlord's oral and written application for an order of possession pursuant to Section 55 of the Act is granted. 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 tenant has not been successful in his application and therefore is not entitled to the recovery of the filing fee.

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 21, 2011.

Residential Tenancy Branch