



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, DR, CNR

Introduction

This hearing was convened in response to an application filed by the tenants seeking:

1. More time to make an application to cancel a notice to end tenancy given for unpaid rent;
2. To cancel a Notice to End Tenancy give for unpaid rent; and
3. To dispute an additional rent increase.

Issue(s) to be Decided

Do the tenants have extraordinary circumstances such that the time for filing this application should be extended? If so, should the Notice to End Tenancy given for unpaid rent be set aside? Has there been an additional rent increase?

Background and Evidence

The tenants say they were served with a 10 day Notice to End Tenancy for unpaid rent on November 7, 2011. The tenant's filed their application seeking to dispute that Notice on November 16, 2011. The tenants agree they have not paid the subject rent but say they have contacted relatives and friends and they now have the money to pay the rent. The tenants say that they are on subsidy and the portion of rent that they are obliged to pay is \$32.00 per month. The tenants agree they did not file the necessary tax returns in time for the rent review and they failed to attend the rent review appointment.

The landlord says that to date the tenants have not paid their rent and they have not filed the necessary paperwork to prove the need for subsidy. The landlord requested an Order of Possession based on the Notice to End Tenancy which had an effective date of November 21, 2011. The landlord requested that the Order of Possession be effective December 15, 2011.

Analysis

The tenants have failed to supply sufficient evidence to show that an extraordinary circumstance existed such that they were unable to file this application seeking to cancel the notice to end tenancy within the proper time limits. On that basis alone their application would be dismissed. But even if the application had been made on time the tenants have not paid their rent. Counsel for the tenants sought to dispute the amount of outstanding arrears however there is no application before me from the landlord seeking those arrears. The only application before me is an application by the tenants seeking to cancel the Notice to End Tenancy for unpaid rent and this cannot be cancelled because (a) the application is out of time and (b) the rent remains outstanding, therefore the landlord is entitled to an Order of Possession as requested.

With respect to the tenant's application seeking to dispute an additional rent increase the tenants have failed to supply evidence that their rent has been increased over the amount allowed under the Act or to show that they have been served with Notice of rent increase. This application is therefore also dismissed.

Conclusion

The landlord is provided with a formal copy of an order of possession. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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 06, 2011.

Residential Tenancy Branch