



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes:

CNC, OPC, OPR, MNR

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to cancel a One-Month Notice to End Tenancy for Cause dated November 29, 2011 and effective January 1, 2012. This hearing was also convened to deal with an application from the landlord seeking an Order of Possession based on the One Month Notice to End Tenancy for Cause dated November 29, 2011 or an Order of Possession based on Ten Day Notice to End Tenancy for Unpaid Rent dated December 2, 2011. The landlord requested a monetary order for rent owed.

Both the landlord and the tenant appeared and each gave testimony in turn.

Issue(s) to be Decided

The issues to be determined based on the testimony and the evidence are:

- Whether the landlord is entitled to end the tenancy pursuant to a One Month Notice to End Tenancy for Cause issued under section 47 of the Act or should it be cancelled as requested by the tenant.
- Whether the landlord is entitled to an Order of Possession based on a Ten Day Notice to End Tenancy for Unpaid Rent .
- Whether the landlord is entitled to a monetary order for rental arrears.

The burden of proof is on the landlord to prove that the tenancy should be ended under one of the two sections outlined above and to prove that rent was owed and unpaid.

Background and Evidence

The tenancy began in July 2011 and the rent is \$875.00. A security deposit of 437.50 was paid.

Submitted into evidence was a copy of the One-Month Notice to End Tenancy dated November 29, 2011 NS copy of the Ten Day Notice to End Tenancy for Unpaid Rent dated December 2, 2011.

The landlord testified that the tenant was served with a One Month Notice to End Tenancy for Cause based on the fact that the landlord has been ordered by the municipal government by-law enforcement office to cease renting the suite. The landlord submitted a copy of a Notice from the municipality dated September 17, 2011 ordering the landlord to cease renting the unit by October 20, 2011.

The tenant testified that the reason he was disputing the Notice was due to his circumstances and the fact that it was very difficult to find a rental unit at the end of December and he was hoping to stay longer in the unit. The tenant pointed out that the situation was not of his making and that it was unfair that he had to relocate his family on such short notice.

With respect to the Ten Day Notice to End Tenancy for Unpaid Rent, the landlord testified that the tenant had failed to pay rent owed for December 1, 2011 and is in arrears for \$875.00. Therefore a Ten Day Notice to End Tenancy for Unpaid Rent was issued. The landlord is seeking an order of possession based on the Notice, which showed an effective date of January 1, 2012 and a monetary order for rent owed.

The tenant acknowledged not paying rent due on December 1, 2011, but stated that there was a subsequent verbal agreement with one of the landlords permitting the tenant to forfeit the \$437.50 security deposit towards one-half of the rent owed for December 2011.

However, the tenant stated that as of December 15, 2011, he and his family are still looking for suitable accommodation and he is not able to vacate the unit at this time. The tenant is aware that rent is still owed for the remaining period of the month, from December 15 to December 31, 2011 in the amount of \$437.50.

Analysis

With respect to the landlord's application seeking an order of possession to end the tenancy, I find that the landlord had the burden of proof to show that the Notice served met the criteria under section 47 of the Act. I find that all of the criteria has been met as evidenced by the order issued by the municipality and must therefore dismiss the tenant's application requesting that the One Month Notice to End Tenancy for Cause be cancelled.

Accordingly, I find that the landlord is entitled to an Order of Possession dated January 1, 2012, based on the valid Notice.

With respect to the Ten Day Notice to End Tenancy for Unpaid Rent, I accept the tenant's testimony that the parties had a mutual agreement permitting the tenant to allocate his \$437.50 security deposit towards rent for the first half of December.

I find that the landlord is still owed \$437.50 for the remaining portion of the month of December 2011 and is therefore entitled to a monetary order against the tenant for this amount.

With respect to the tenant's request to be granted more time to find a new residence, I find that I do not have the authority under the Act to extend the amount of time beyond the date specified in a Notice that I have found to be in compliance with the Act.

Conclusion

Based on the above, I hereby issue an Order of Possession in favour of the landlord effective January 1, 2012. 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 for enforcement.

Based on the evidence and testimony, I hereby issue a monetary order in favour of the landlord for \$487.50, comprised of \$437.50 for rent owed for December and the \$50.00 cost of the application.

The remainder of the landlord's application is dismissed. 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 15, 2011.

Residential Tenancy Branch