



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC MNR MNDC LAT FF

Introduction

This hearing dealt with two applications by the tenant. The tenant applied to cancel a notice to end tenancy for cause, as well as for a monetary order and an order authorizing the tenant to change the locks to the rental unit. The tenant and an agent for the landlord participated in the teleconference hearing.

At the outset of the hearing, the landlord confirmed that they had received the tenant's evidence and that they had not submitted any documentary evidence. I have reviewed all testimony and other evidence. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

I determined that the issue of the notice to end tenancy took precedence, and only heard evidence on that issue. I will address the remainder of the tenant's applications in the conclusion of my decision.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Background and Evidence

Undisputed Facts

On October 17, 2012, the landlord served the tenant a notice to end tenancy for cause. The notice indicated that the reasons for ending the tenancy were (1) that the tenant had put the landlord's property at significant risk; and (2) the tenant had breached a material term of the tenancy agreement and did not correct the breach within a reasonable time after written notice to do so.

The tenancy agreement requires that the tenant have hydro and natural gas connected. On September 3, 2012 the landlord sent the tenant a letter informing the tenant that the

landlord was aware that the tenant's hydro had been disconnected since May 2012; that the tenant was putting the property at risk; and that the tenant must reconnect her hydro no later than September 29, 2012 or the landlord would take steps to end the tenancy.

Landlord's Evidence

The tenant is required to have gas and hydro hooked up because if there is no heat, the rental unit could be significantly damaged, especially in the winter. Last winter, the tenant did not have the gas hooked up until December, and the water in the rental unit froze. The landlord then had to do repairs at considerable expense.

The tenant's hydro was disconnected on May 23, 2012. The landlord sent the tenant a letter on September 3, 2012, telling her to have the hydro reconnected. There was no communication between the landlord and the tenant after September 3, 2012. Hydro was still not reconnected on October 17, 2012, the date that the landlord issued the notice to end tenancy. The landlord confirmed with the hydro company that the tenant's hydro was not reconnected until October 23, 2012. If there is no hydro, there will be no heat because the fans for the gas furnace run on electricity, so the tenant was putting the property at significant risk.

During the hearing the landlord orally requested an order of possession.

Tenant's response

The tenant's gas and hydro services were interrupted because the Ministry of Social Services was supposed to pay the tenant's utilities but they were not doing so. In August 2012 the tenant applied for a hearing with Social Services. The tenant told the landlord that Social Services was going to be dealing with the hydro, and it would be reconnected.

The tenant could not or would not provide specific dates when she informed the landlord that the hydro was going to be reconnected or when the hydro was in fact reconnected.

Analysis

I find that the notice to end tenancy is valid. I find that the term in the tenancy agreement requiring the tenant to have hydro and electricity connected is a material term, as the failure to have these utilities connected can put the property at significant risk. I find that the tenant breached this term, and she did not correct the breach within a reasonable time after she received written notice to do so.

As the notice to end tenancy is valid, and the landlord requested an order of possession, I accordingly grant the landlord an order of possession.

As the tenancy is ending, I dismiss the portion of the tenant's application regarding authorization to change the locks.

As the tenant's applications to cancel the notice to end tenancy were unsuccessful, she is not entitled to recovery of the filing fees for her applications.

The monetary portions of the tenant's applications are dismissed with leave to reapply.

Conclusion

I grant the landlord an order of possession effective two days from service. 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.

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 7, 2012.

Residential Tenancy Branch