



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

This was a hearing with respect to the tenant's application to cancel a Notice to End Tenancy for unpaid rent. The hearing was conducted by conference call. The tenant and the landlord's representatives called in and participated in the hearing.

Issue(s) to be Decided

Should the Notice to End Tenancy be cancelled?

Background and Evidence

The rental unit is a two bedroom apartment in Duncan. The tenancy began in September, 2012. The landlord did not prepare a written tenancy agreement. When the tenancy began the tenant shared the rental unit with another tenant, Ms. V.E. She moved out and did not pay her portion of rent for November. All but \$70.00 of the November rent was paid by or on behalf of the tenant.

On December 1, 2012 the landlord served a 10 day Notice to End Tenancy for unpaid rent by posting it to the door of the rental unit. The Notice alleged that the tenant failed to pay rent that was due in the amount of \$515.00 consisting of \$70.00 arrears from November and \$445.00 unpaid for December. The tenant's portion of \$45.00 was paid on her behalf. The landlord said that she told the tenant that because she had not found a room-mate to share the rent she would have to move

The tenant testified that when she came to the rental unit in December the landlord had changed the locks, had removed her belongings and refused to let her into the rental unit. The landlord's representative confirmed that the landlord did not apply for or obtain an order for possession and that they have stored the tenant's belongings.

The tenant testified that she does not have a place to stay. She is living on the street and does not have a mailing address or a place to store her belongings.

Analysis and conclusion

Although the landlord's representatives are operating a commercial property on behalf of the landlord, they appear to have little or no appreciation of their obligations or responsibilities under the *Residential Tenancy Act*. They did not bother to prepare a written tenancy agreement and they acted to evict the tenant without first obtaining an order for possession and following the procedures for enforcing such an order.,

The tenant does not have grounds for the cancellation of the Notice to End Tenancy, but she is entitled to a remedy against the landlords for her improper eviction and for compensation for her goods if they are not stored safely and returned to her intact. I told the tenant during the hearing that if she intends to pursue such a claim she will have to submit a new application for dispute resolution. The application to cancel the Notice to End Tenancy is dismissed.

At the hearing the landlord's representative requested an order for possession. Because i have dismissed the application to cancel the Notice to End Tenancy and to provide certainty that the tenancy has ended the landlord is entitled to an order for possession which is effective after service on the tenant. The issuance of the order for possession does not affect any remedies the tenant may have arising out of her improper eviction.

Because the tenant does not have a mailing address I have instructed the landlord's representative to give a copy of this decision to the tenant when she contacts them concerning the return of her possessions.

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: January 18, 2013

Residential Tenancy Branch

