



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, CNC

Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments have been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

This decision deals with two applications for dispute resolution. Both files were heard together.

One application is a request to cancel a one-month notice to end tenancy given for cause, and the other is a request to cancel a 10 day notice to end tenancy given for nonpayment of rent.

I dealt first with the 10 day notice to end tenancy.

Background and Evidence

The applicant testified that:

- He spoke to the landlord, and offered to move out of the rental unit by March 30, 2013 as long as they did not have to pay any further rent.
- The landlord said she would want that offer in writing, however before he could give her the offer in writing she served him with a 10 day notice to end tenancy.
- He thought they had an agreement and therefore should not have to pay any further rent.

The landlord testified that:

- I have never agreed that the tenant would not have to pay any further rent.
- The tenant made an offer to move as long as they didn't have to pay any further rent, however I never agreed to this offer.
- The tenants withheld the February 2013 rent on their own without any agreement with me allowing them to do so, and therefore on February 14, 2013 she served the tenants with a 10 day notice to end tenancy.
- To date the tenants have failed to pay any of the February 2013 rent and have failed to comply with the notice to end tenancy.
- She is therefore requesting that the tenant's application be dismissed and that an order of possession be issued.

Analysis

The tenant claims that the landlord agreed to allow them to stay in the rental unit without paying rent; however the landlord denies ever reaching such an agreement with the tenants.

The burden of proving a claim lies with the person making that claim, and when it is just the that persons word against that of the other that burden of proof is not met.

Therefore in this case it's my finding that the tenant has not met the burden of proving that the landlord ever agreed to allow them to stay in the rental unit without paying rent.

I therefore I'm not willing to set aside the 10 day notice to end tenancy and this tenancy ends pursuant to that notice.

Since this tenancy is ending as a result of the 10 day notice to end tenancy, there is no need for me to deal with the request to cancel the one-month notice to end tenancy.

Conclusion

The tenant's applications to cancel the notices to end tenancy are both dismissed without leave to reapply, and at the request of the landlord I've issued an Order of Possession that is enforceable two days after service on the tenants.

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: February 28, 2013

Residential Tenancy Branch

