



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, DRI, LAT, FF

Introduction

This is an application filed by the Tenant for an order to cancel a notice to end tenancy issued for cause, to dispute an additional rent increase, to authorize the Tenant to change the locks to the rental unit and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended and have confirmed receipt of the submitted documentary evidence, I am satisfied that both parties have been properly served.

During the hearing the Tenant clarified that he had no details of the dispute or evidence to provide for the request to dispute an additional rent increase and as such, I dismiss that portion of the application. The Landlord also made an oral request to end the tenancy and obtain an order of possession.

Issue(s) to be Decided

Is the Tenant entitled to an order cancelling the notice to end tenancy issued for cause?

Is the Tenant entitled to an order to change the locks?

Is the Landlord entitled to an order of possession?

Background, Evidence and Analysis

Both parties agreed that no signed tenancy agreement exists, but that the tenancy began in February of 2012 for \$675.00 per month and was payable on the 1st of each month.

Both parties also agreed that the Landlord served the Tenant with a 1 month notice to end tenancy dated January 30, 2013 on the same date by posting it to the rental unit

door. The stated effective date of the notice is February 28, 2013. The stated reason for cause is "Tenant is repeatedly late paying rent."

The Landlord states that the Tenant has been repeatedly late paying rent on the following occasions.

- April rent paid April 3, 2012.
- July rent paid July 10, 2012.
- November rent paid November 13, 2012.
- December rent paid December 7, 2012.
- January rent paid January 7, 2013.

The Tenant disputes the Landlord's claims by stating that he has always paid cash to the Landlord and it was always ready for pick up on the 1st of each month. The Tenant states that some of the rent payments were late because the Landlord failed to attend to pick up the rent on the 1st. Both parties have agreed that during the tenancy, the Landlord would attend on the 1st of the month or some day later to pick up the rent and as well the Tenant has attended the Landlord's home to pay the rent. The Landlord relies on banking statements that show various deposit dates as his proof that the Tenant was late paying rent. The Landlord states that he has only given verbal warnings to the Tenant regarding the late rent payments. The Landlord states that he relies on each of the rent payments to pay his monthly mortgage payments. The Tenant has stated that he cannot dispute the dates of the late payments, but argues that the Landlord failed to act in a timely manner as he served the eviction notice on January 30, 2013. The Landlord argues that he served the Tenant with the notice as soon as possible.

I find that the Tenant has failed in his application to cancel the notice to end tenancy dated January 30, 2013. Both parties have confirmed that rent was late as listed above, but in particular November 2012, December 2012 and January 2013. The Landlord served the notice on January 30, 2013 when the Tenant was late paying rent 3 consecutive months in a row. The Tenant's Application is dismissed. The Landlord's oral request for an order of possession is granted. As the stated effective date of the notice has expired, the Tenant must comply within 2 days of receiving the order. 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.

The Tenant also seeks an order to be authorized to change the locks preventing the Landlord access to the rental unit. As the Tenancy is coming to an end, I decline to make any direction on this portion of the application

Conclusion

The Tenant's Application is dismissed.
The Landlord is granted an order of possession.

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: March 05, 2013

Residential Tenancy Branch

