



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, FF

Introduction

This hearing was convened in response to an application filed by the tenant seeking to cancel a Notice to End Tenancy given for unpaid rent and recovery of the filing fee paid for this application.

The tenant appeared at the hearing, the landlord did not. The tenant gave evidence that he served the landlord with his Application for Dispute Resolution and Notice of Hearing by way of mail sent on March 4, 2013.

Based on the evidence of the tenant, I accept that the landlord has had notice of this claim.

The tenant gave evidence under oath.

Issue(s) to be Decided

Should the Notice to End Tenancy be cancelled? Should the tenant recover the filing fee paid for this application?

Background and Evidence

The tenant testified that he was served with a 10 day Notice to End Tenancy for unpaid rent on February 28, 2013. The tenant says that the landlord is his step-father who suffers from dementia. The tenant says that he visits his step-father regularly and he pays his step-father the rent in cash.

Analysis and Conclusion

The landlords did not appear at the hearing of this matter to meet their burden of proving cause (unpaid rent) to end this tenancy and the tenant has testified that he has paid the rent. Based on the undisputed evidence of the tenant the Notice to End Tenancy which is the subject of this hearing is set aside. The effect of this decision is that this tenancy shall continue as though that Notice had not been served.

The tenant has requested to be allowed to recover the filing fee he has paid for this application, given that he has been successful in having the Notice to End Tenancy set aside I direct the tenant to deduct \$50.00 from his next rental payment to realize recovery of this sum.

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 27, 2013


D. SIMPSON, Arbitrator
Residential Tenancy Branch



Residential Tenancy Branch

RTB-136

Now that you have your decision...

All decisions are binding and both landlord and tenant are required to comply.

The RTB website (www.rto.gov.bc.ca) has information about:

- How and when to enforce an order of possession:
Fact Sheet RTB-103: *Landlord: Enforcing an Order of Possession*
- How and when to enforce a monetary order:
Fact Sheet RTB-108: *Enforcing a Monetary Order*
- How and when to have a decision or order corrected:
Fact Sheet RTB-111: *Correction of a Decision or Order*
- How and when to have a decision or order clarified:
Fact Sheet RTB-141: *Clarification of a Decision or Order*
- How and when to apply for the review of a decision:
Fact Sheet RTB-100: *Review Consideration of a Decision or Order*
(Please Note: Legislated deadlines apply)

To personally speak with Residential Tenancy Branch (RTB) staff or listen to our 24 Hour Recorded Information Line, please call:

- Toll-free: 1-800-665-8779
- Lower Mainland: 604-660-1020
- Victoria: 250-387-1602

Contact any Service BC Centre or visit the RTB office nearest you. For current information on locations and office hours, visit the RTB web site at www.rto.gov.bc.ca