



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC OLC RP PSF LRE FF OPR OPC FF

Introduction

This hearing dealt with applications by the tenant and the landlord. The tenant applied for monetary compensation and a reduction in rent, as well as for an order for repairs, an order that the landlord comply with the Act, an order setting conditions on the landlord's right to enter the rental unit and an order that the landlord provide services or facilities required by law. In the hearing, I confirmed with the tenant that she had made a clerical error when she checked the box applying for an extension of time to dispute a notice to end tenancy, and she in fact sought to apply to cancel a notice to end tenancy for cause. I amended the tenant's application to allow for the tenant's application to cancel the notice to end tenancy for cause. The landlord applied for an order of possession pursuant to the notice to end tenancy for cause, as well as an order of possession pursuant to the notice to end tenancy for unpaid rent. Both the landlord and the tenant participated in the teleconference hearing.

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

Issue(s) to be Decided

Is the notice to end tenancy for unpaid rent valid?
Is the notice to end tenancy for cause valid?

Background and Evidence

On April 17, 2013, the landlord served the tenant with a notice to end tenancy for cause.

In early May 2013 the landlord served the tenant with a notice to end tenancy for unpaid rent. The notice is dated May 2, 2013. The landlord stated that he placed the notice in

the tenant's mailbox on May 2, 2013, and he submitted a written statement from a witness who observed the landlord put the notice in the mailbox. The landlord also submitted a photograph of himself standing in front of a set of mailboxes. The landlord wrote "Thur May 3rd" on the photograph, but stated in the hearing that he in fact served the notice on Thursday, May 2, 2013. The landlord stated that he was out of town between May 10 and May 13, 2013, and when he returned home on May 13th he found a cheque from the tenant in a glass jar on his doorstep.

The tenant stated that she did not dispute the notice to end tenancy for unpaid rent because the rent was paid within five days of receiving the notice. The tenant first stated that she received the notice in her mailbox the day after the landlord served it, and then she stated that she received it on May 5th. The tenant stated that on May 10, 2013, she left the rent cheque in a glass jar on the landlord's doorstep because the landlord was not home, he did not have a proper mailbox, and she did not want the cheque to get wet.

Analysis

I find that the notice to end tenancy for unpaid rent is valid. I accept the landlord's evidence that he placed the notice in the tenant's mailbox on May 2, 2013. Even if the tenant did not receive the notice until May 5, 2013, she failed to pay the outstanding rent in full within five days of receiving the notice, as she did not properly serve the rent cheque to the landlord on or before May 10, 2013. The landlord is therefore entitled to an order of possession pursuant to the notice to end tenancy for unpaid rent.

As the tenancy is ending pursuant to the notice to end tenancy for unpaid rent, it was not necessary for me to consider the validity of the notice to end tenancy for cause.

As the landlord's application was successful, he is entitled to recovery of the \$50 filing fee for the cost of his application.

Conclusion

I dismiss the portion of the tenant's application regarding cancelling the notice to end tenancy for cause, as well as the portions seeking a reduction in rent, an order for repairs, an order that the landlord comply with the Act, an order setting conditions on the landlord's right to enter the rental unit and an order that the landlord provide services or facilities required by law. The monetary portion of the tenant's claim is dismissed with leave to reapply.

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.

I further grant the landlord recovery of the \$50 filing fee for the cost of his application.

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: May 21, 2013

Residential Tenancy Branch

