



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NAI Goddard & Smith
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR

Introduction

This hearing was convened in response to an application filed by the tenants who are seeking to cancel a Notice to End Tenancy given for unpaid rent.

Both parties appeared at the hearing and gave evidence under oath.

Issue(s) to be Decided

Is the rent outstanding?

Background and Evidence

The tenant agrees that she was served personally with a Notice to End Tenancy on April 29, 2013 with respect to rent due on April 1, 2013. The tenant agrees that rent for April has not yet been paid nor has rent for May 2013. The tenant says that her husband has been ill and they have had financial problems. The tenant is asking the landlord to give them another chance.

The landlord testified that the rent is frequently late and the landlord offered the tenants a less expensive rental unit in January 2013 but the tenants declined the offer. The landlord says he is unable to offer any further assistance. The landlord requested an Order of Possession.

The tenant requested that if an Order must be issued that it be issued effective June 15, 2013. The landlord agreed with this date.

Analysis

While the tenants did make application seeking to dispute the Notice the parties agree that the rent requested in the Notice remains outstanding. In fact, the evidence shows that further rental arrears have now accrued. As there is outstanding rent, I dismiss the tenants' application seeking to cancel the Notice to End Tenancy.

The landlord has requested an Order of Possession, Section 55(1) of the *Residential Tenancy Act* states:

- 55** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,
- (a) the landlord makes an oral request for an order of possession, and
 - (b) the director dismisses the tenant's application or upholds the landlord's notice.

As an oral request for an Order of Possession has been made and as I have dismissed the tenant's application seeking to cancel the Notice to End Tenancy, I will issue an Order of Possession. Although the landlord is in a position to have the Order become effective 2 days after service the landlord has agreed to allow this tenancy to end on June 15, 2013 and the Order shall be issued on those terms.

The landlord also requested a monetary Order to recover the rental arrears. This hearing was held in response to an application filed by the tenant. I have no application before me from the landlord that I may consider I must therefore decline this request. However the landlord remains at liberty to make his own application.

Conclusion

The landlord is provided with a formal copy of an Order of Possession. This is a final and binding Order as any Order of the Supreme Court of British Columbia.

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 27, 2013

Residential Tenancy Branch

