



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Abbotsford Kinsmen Housing Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR

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.

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

Issue

Is the Notice to End Tenancy given for unpaid rent valid?

Analysis

The tenant states that she was served with a Notice to End Tenancy seeking unpaid rent in the amount of \$121.94. The tenant says this is not unpaid rent but charges for mould clean-up performed in July 2012. The tenant testified that with respect to the amount owed her records showed she had paid \$47.00 toward that sum and only \$74.94 remained owing. The landlord agreed and adjusted their records and then issued a new Notice to End Tenancy for unpaid rent in the sum of \$74.94. The tenant states that this Notice is invalid because the amount owing is not rent.

The landlord agrees with the tenant's version of events.

Analysis

The *Residential Tenancy Act* defines rent as:

money paid or agreed to be paid, or value or a right given or agreed to be given,
by or on behalf of a tenant to a landlord in return for the right to possess a rental

unit, for the use of common areas and for services or facilities, but does not include any of the following:

- (a) a security deposit;
- (b) a pet damage deposit;
- (c) a fee prescribed under section 97 (2) (k) [*regulations in relation to fees*];

As set out above, rent is a sum paid to possess a rental unit, for use of the common areas and for use of the various services or facilities which might be available. Rent is not a sum charged for other reasons such as for clean-up costs as is the case in this matter.

As the Notice to End Tenancy seeks a sum which is not rent, the Notice is not valid.

Conclusion

The tenant's application is allowed. The effect of this decision is that this tenancy shall continue as though no notice had been issued.

The tenants' application is allowed. The effect of this decision is that the Notice to End Tenancy is set aside and this tenancy will continue.

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: June 05, 2013

Residential Tenancy Branch

