



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI CNR RR FF

Preliminary Issues

Upon review of the Tenants' application the Tenant confirmed he had made an error on his application as he was not disputing a rent increase. Therefore, he withdrew his request to dispute an additional rent increase.

Residential Tenancy Rules of Procedure, Rule 2.3 states that, in the course of the dispute resolution proceeding, if the arbitrator determines that it is appropriate to do so, he or she may dismiss the unrelated disputes contained in a single application with or without leave to reapply.

Upon review of the Tenants' application I have determined that I will not deal with all the dispute issues the Tenant has placed on their application. For disputes to be combined on an application they must be related. Not all the claims on this application are sufficiently related to the main issue relating to the Notice to end tenancy. Therefore, I will deal with the Tenants' request to cancel a notice to end tenancy issued for rent and I dismiss the balance of the Tenant's claim with leave to re-apply.

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenants to cancel a Notice to end tenancy issued for unpaid rent and to recover the cost of the filing fee from the Landlord for this application.

The parties appeared at the teleconference hearing, acknowledged receipt of evidence submitted by the other and gave affirmed testimony. At the outset of the hearing I explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however, each declined and acknowledged that they understood how the conference would proceed.

During the hearing each party was given the opportunity to provide their evidence orally, respond to each other's testimony, and to provide closing remarks. A summary of the

testimony is provided below and includes only that which is relevant to the matters before me.

Issue(s) to be Decided

1. Should the 10 Day Notice to end tenancy be upheld or cancelled?
2. If upheld, did the Landlord make an oral request for an Order of Possession?

Background and Evidence

The Tenants have occupied this rental unit since mid January 2013 on the initial tenancy agreement. A subsequent tenancy agreement was signed and came into effect on August 1, 2013 for the monthly rent of \$1,250.00 which is due on the first of each month. The Tenants paid a security deposit of \$625.00 on January 15, 2013 which was transferred to this second tenancy agreement.

The Tenant testified and confirmed receipt of the 10 Day Notice when it was personally served to him on September 11, 2013, by the Landlord. He does not dispute the fact that he owes September and October 2013 rent payments; however, he is requesting more time to get caught up. He indicated that he could pay his October 2013 rent right away but would need more time to come up with the September rent.

The Tenant stated that he has fallen behind on his rent because his father recently passed away and he is awaiting receipt of a death benefit.

The Landlord testified that this is not the first time these Tenants have been late in paying their rent. He has heard all kinds of excuses from these Tenants and he cannot continue to allow them to delay payment of their rent. He stated that he represents the owners who have requested that he collect September and October rents and move forward to request an Order of Possession.

In closing the Tenant stated that he disagreed with the issuance of an Order of Possession and requested more time to find a place. The Landlord denied the request.

Analysis

Section 26 of the Act provides that a tenant must pay rent when it is due in accordance with the tenancy agreement. In this case rent is payable on the first of each month in the amount of \$1,250.00.

The Tenant did not dispute the Notice and confirmed that he has not paid rent for September or October 2013. Upon consideration of all the evidence presented to me, I find the Landlord had valid reasons for issuing the Notice. Accordingly I dismiss the Tenant's application, without leave to reapply.

The Tenants were not successful with their application; therefore I decline to award recovery of the filing fee.

Section 55 of the Act provides that an Order of Possession must be provided to a Landlord if a tenant's request to dispute a Notice to End Tenancy is dismissed and the Landlord makes an oral request for an Order of Possession during the scheduled hearing. Accordingly, I grant the Landlord an Order of Possession. The Landlord is at liberty to file an application to seek a Monetary Order for the unpaid rent.

Conclusion

I HEREBY FIND the Landlord is entitled to an Order of Possession effective **Two (2) Days upon service**. This Order is legally binding and must be served upon the Tenants. In the event that the Tenants do not comply with this Order it may be filed with the Province of British Columbia Supreme Court and enforced as an Order of that Court.

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: October 25, 2013

Residential Tenancy Branch

