



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Fraserside Community Services Society and Vancouver Eviction Services
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR MNDC ERP RP RPP LRE AAT RR OPR MNR MNSD FF

Introduction

This hearing dealt with applications by the tenant and the landlord. The tenant applied to cancel a notice to end tenancy for unpaid rent, as well as for monetary compensation, orders for repairs and emergency repairs, an order to return personal property, an order granting the tenant access to the rental unit and a reduction in rent. The landlord applied for an order of possession, a monetary order and an order to retain the security deposit in partial compensation of the monetary claim.

I determined that the issue of the notice to end tenancy took precedence, and only heard evidence on that issue. I will address the remainder of the applications in the conclusion of my decision.

The tenant stated that he did not receive the landlord's application for dispute resolution. The landlord provided evidence, which the tenant confirmed, that the tenant signed for a registered mail package on August 23, 2013. The landlord's agent, SA, stated that she prepared and mailed the package, and that it contained all of the same documents submitted to the Residential Tenancy Branch. The tenant presented confusing and contradictory evidence regarding the documents that he did and did not receive in the landlord's package. After extensive inquiry, I found I was satisfied that the tenant was served with the landlord's application.

Preliminary Issues

The tenant requested an adjournment, because he had not had sufficient time to prepare and submit all of his evidence and his advocate was not available to attend the hearing on this date. I informed the parties that I was only proceeding on the issue of the notice to end tenancy, and I would not adjourn that portion of the hearing.

The tenant applied on July 26, 2013 to cancel a notice to end tenancy for unpaid rent. However, the tenant was not served with a notice to end tenancy on the prescribed form until August 2, 2013. With the landlord's agreement, I amended the tenant's application to indicate that the tenant sought to cancel the notice to end tenancy dated August 2, 2013.

At approximately 34 minutes into the teleconference hearing, the tenant disconnected. I informed the landlord's agents that we would wait to see if the tenant reconnected. Three minutes later, the tenant called back in to the hearing and said that he had been cut off. I informed the tenant at that time that while he was offline, the landlord's agents and I had not spoken, only waited for the tenant. The hearing then resumed.

Issue(s) to be Decided

Is the notice to end tenancy dated August 2, 2013 valid?

Background and Evidence

Undisputed Facts

The tenancy began on May 1, 2013, with monthly rent of \$375 due in advance on the first day of each month. The tenant's rent was paid by the Ministry. In June 2013, only \$200 of the rent was paid. On July 11, 2013, the tenant gave the landlord a note, in which he promised to pay the balance of \$175 of June's rent no later than July 24, 2013. On July 25, 2013, the landlord served the tenant with a letter in which the landlord stated that they were "discharging" the tenant from his unit for failure to pay the \$175 outstanding for June 2013 rent. The landlord arranged for the police to remove the tenant. The tenant did not have access to the rental unit for seven days. On August 1, 2013 the landlord allowed the tenant to regain access to the unit. On August 2, 2013, the landlord served the tenant with the notice to end tenancy for unpaid rent in the amount of \$175, which the notice indicated was due on August 1, 2013.

Tenant's Submissions

The tenant stated that the Ministry made a mistake, which was why the tenant's rent was not paid in full for June 2013. The tenant stated that on July 24, 2013 he attended at the rental office and attempted to pay the outstanding \$175, but the landlord refused to accept it. Then the following day the RCMP removed the tenant from the property and the landlord would not give the tenant access until August 1, 2013. Later in the hearing, the tenant stated that he went to the rental office to pay the \$175 after August

12, 2013, but he was advised by the Residential Tenancy Branch to hold on to the \$175 until the hearing date. The tenant disputed the validity of the notice on the grounds that he attempted to pay the outstanding amount but the landlord refused to accept it, and because the amount owing was for June 2013, not for August 2013 as indicated on the notice.

Landlord's Submissions

One agent of the landlord, RS, stated that the tenant came into the rental office and waved some money around, and then stated he was not going to pay because he needed some legal advice. RS was not sure of the date that this occurred. Another agent of the landlord, PE, was also present in the rental office when the tenant came in. She stated that the tenant came in with the money, waved it around, and then started raising other issues and refused to pay. PE believed this incident occurred after July 26, 2013. The landlord submitted that the notice dated August 2, 2013 is valid, and it was open to the tenant to pay the outstanding rent but he failed to do so.

In the hearing the landlord orally requested an order of possession.

Analysis

I find that the notice to end tenancy for unpaid rent dated August 2, 2013 is valid. Whether the tenant attempted to pay the \$175 in outstanding rent or not, all of the parties' evidence shows that this occurred before the issuance of the August 2, 2013 notice. The tenant acknowledged that he owed \$175, the amount set out on the notice. Any amounts paid for rent for July and August would have been put toward the outstanding \$175, so the tenant still owed \$175 in unpaid rent that was not paid when it was due on August 1, 2013. The tenant received the notice on August 2, 2013, and he did not pay any of the outstanding amount within five days of having been served with the notice. The tenant's application to cancel the notice is dismissed, and the landlord is entitled to an order of possession.

As it is clear that the tenant owes \$175 in unpaid rent, I find the landlord is entitled to this amount. As the landlord's application was successful, I find they are also entitled to recovery of the \$50 filing fee for the cost of their application.

Conclusion

The tenant's application to cancel the notice to end tenancy is dismissed. As the tenancy is ending, I also dismiss the tenant's application for repairs, emergency repairs, an order allowing the tenant to access the unit and an order for reduction in rent. The tenant's application for monetary compensation is dismissed with leave to reapply. It is open to the tenant to apply for monetary compensation for loss of quiet enjoyment or loss of use of his unit, or other monetary compensation or damages related to his tenancy.

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 grant the landlord an order under section 67 for the balance due of \$225. This order may be filed in the Small Claims 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: August 29, 2013

Residential Tenancy Branch