



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNR

Introduction

This is an application by the Tenant to be allowed more time to make an application to cancel a notice to end tenancy, if granted to cancel a notice to end tenancy issued for unpaid rent.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended and have confirmed receipt of the notice of hearing package and the submitted documentary evidence of the other party, I am satisfied that both parties have been properly served.

During the hearing, the Landlord indicated that the address provided was incorrect and that it should be 7081 instead of 7089. The Application shall be amended to reflect the proper address.

The Tenants applied for more time to be allowed to make an application to cancel a notice to end tenancy on July 4, 2013. I find as both parties have confirmed that the Tenants received the 10 day notice to end tenancy dated July 1, 2013 on July 1, 2013 that no extension of time is necessary. The Tenants applied within the allowed 5 day time frame.

Issue(s) to be Decided

Is the Tenant entitled to an order cancelling the notice to end tenancy?

Background and Evidence

This tenancy began on February 21, 2013 on a month to month basis \$850.00 payable on the 1st of each month as shown by the submitted copy of the signed tenancy agreement. A security deposit of \$425.00 was paid on February 21, 2013.

Both parties agreed that the Tenants were served with a 10 day notice to end tenancy issued for unpaid rent on July 1, 2013. The notice stated an effective date of July 10, 2013. The notice shows that \$1,100.00 was due on July 1, 2013 and remains unpaid.

The Tenants dispute the notice stating that there were no arrears when the 10 day notice was served. Both parties agreed that the ministry paid \$425.00 of the monthly rent by cheque and that the Tenants paid the rest. The Tenants state that \$425.00 was paid in cash to the Landlord's manager. The Landlord disputes this stating that there was a \$250.00 rent arrears for June and the monthly rent of \$850.00 was due for July for which she received a cheque from the ministry for \$425.00. Both parties have confirmed in their direct testimony that no rent has been paid for August 2013.

Analysis

On a balance of probabilities, I prefer the evidence of the Landlord over that of the Tenant. The onus or burden of proof lies with the party who is making the claim. When one party provides evidence of the facts in one way and the other party provides an equally probable explanation of the facts, without other evidence to support their claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails. The Tenant has failed to provide sufficient evidence to satisfy me that rent was paid. The Tenant's Application is dismissed.

As the Landlord has made an oral application during the hearing to end the tenancy, I grant the Landlord an order of possession. This order must be served upon the Tenant. Should the Tenant fail to comply, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Conclusion

The Tenant's Application is dismissed.
The Landlord is granted an order of possession.

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 08, 2013

Residential Tenancy Branch

