



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, CNL, CNR, LRE, OPT, LAT, RR, FF

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order cancelling a notice to end tenancy – Sections 46 and 47;
2. An Order suspending or setting conditions on the Landlord’s right to enter the rental unit – Section 70;
3. An Order of Possession – Section 54;
4. An Order allowing access to the unit for the tenant or the tenant’s guests – Section 70;
5. An Order authorizing the tenant to change the locks – Section 70;
6. An Order allowing the Tenant to reduce rent for services/facilities agreed upon but not provided – Section 65; and
7. An Order to recover the filing fee for this application - Section 72.

The Tenant and Landlord were each given full opportunity to be heard, to present evidence and to make submissions under oath.

Preliminary Matter

At the onset of the Hearing, the Parties agreed that there are two agreements in relation to the dispute address. One agreement is in relation to a commercial shop and a second agreement is in relation to a separate cabin on the property that the Tenant resides in. The Tenant states that the Landlord removed the Tenant’s belongings from the cabin approximately two weeks ago and changed the locks however the police were

called and the Landlord provided the Tenant with a key to the cabin. The Tenant states that he has lost all of his belongings due to the actions of the Landlord. The Tenant states that he is moving out of the cabin as of October 31, 2013 and that he withdraws all claims in the application except for the claim to cancel the notice to end tenancy and the claim for compensation. The Tenant states that the only notice to end tenancy received was in relation to unpaid rent. The Tenant states that the amount claimed in the application is in relation to lost commercial revenue only as he has not amended the application to include the losses of two weeks ago.

Section 2 of the Act provides that the Act only applies to residential tenancies, agreements and property. As the claim for commercial revenue is in relation to a commercial tenancy and not a residential tenancy, and as the Act does not apply to commercial tenancies, I find that there is no jurisdiction to consider a claim for commercial losses in relation to the commercial tenancy and I dismiss the Tenant's claim for compensation in relation to the commercial losses. As the Tenant has not amended his application to include a claim for his belongings, I note that the Tenant remains at liberty to make an application for dispute resolution in relation to this claim.

Issue(s) to be Decided

Is the Notice valid?

Is the Tenant entitled to a cancellation of the notice to end tenancy?

Background and Evidence

The following are agreed and undisputed facts: The tenancy of the cabin started in November 2012. The rent for the cabin is \$300.00 per month and the Tenant owes rent for July, August and September 2013 for the cabin. On September 2, 2013 the Landlord served the Tenant personally with a 10 day notice to end tenancy for unpaid rent (the "Notice"). The Notice includes an amount of unpaid rent for both the cabin and the shop for July, August and September 2013.

The Landlord requests an Order of Possession for October 31, 2013 if the Notice is found to be valid.

Analysis

Section 68 of the Act provides that a notice to end tenancy may be amended in reasonable circumstances. Given the undisputed evidence that the amount of rent owed for the cabin for the months of July, August and September 2013 is \$900.00 and that the Notice includes an amount for the commercial rent, I find that notice contains an error in the amount of unpaid rent that may be reasonably amended. As such, I amend the Notice to indicate that the rent owed as of September 1, 2013 is \$900.00.

Given the agreement of the Parties that the Tenant owes \$900.00 in unpaid rent, I find that the amended Notice is valid and that the Tenant is not entitled to a cancellation of the Notice. I therefore dismiss the Tenant's application.

Section 55 of the Act provides that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, an order of possession of the rental unit to the landlord must be granted if, at the time scheduled for the hearing, the landlord makes an oral request for an order of possession and the landlord's notice is upheld. Given the finding of a valid Notice and the request for an Order of Possession, I find that the Landlord is entitled to an Order of Possession.

Conclusion

I grant an Order of Possession to the Landlord effective 1:00 p.m. October 31, 2013.

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 21, 2013