



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

This hearing dealt with an application by the tenants for an order setting aside a notice to end this tenancy. Both parties participated in the conference call hearing.

Issue to be Decided

Should the notice to end tenancy be set aside?
Is the landlord entitled to an order of possession?

Background and Evidence

The parties agreed that the tenancy began in February 2013 and that the tenants are obligated to pay \$850.00 per month for rent in advance on the first day of each month. The parties further agreed that the tenants did not pay rent in the months of November and December and that on November 5, the tenants were served with a 10 day notice to end tenancy for unpaid rent (the "Notice").

The tenants testified that the landlord telephoned the Ministry of Employment and Income Assistance (the "Ministry") and caused the Ministry to stop sending rent cheques. The landlord testified that he called the Ministry to ask why he had not received the rent and at no time indicated that rent was not payable.

The parties agreed that since the tenancy began in February 2013, the rent cheques have always been made payable to the landlord and that they were, with the exception of one month, sent to the address of the tenants.

Analysis

There is no question that rent was owing to the landlord at the time the Notice was served. The tenants have alleged that the landlord essentially refused to accept rent by

arranging with the Ministry for the rent not to be paid, but the tenants provided no evidence to corroborate that claim even though it could have been obtained from the Ministry.

I am not persuaded that the landlord refused to accept the rent for November and I find that the tenants failed to pay rent when it was due. I find that the landlord has established grounds to end this tenancy and I therefore dismiss the application to set the Notice aside.

During the hearing the landlord made a request under section 55 of the legislation for an order of possession. Under the provisions of section 55, upon the request of a landlord, I must issue an order of possession when I have upheld a notice to end tenancy. Accordingly, I so order. The tenants must be served with the order of possession. Should the tenants 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.

Conclusion

The tenants' application is dismissed and 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: December 09, 2013

Residential Tenancy Branch

