



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Associated Property Management (2001) Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNR, MNDC, OLC, RR, FF
OPR

Introduction

This hearing was scheduled in response to an application by the tenants for cancellation of a notice to end tenancy for unpaid rent / a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / an order instructing the landlord to comply with the Act, Regulation or tenancy agreement / permission to reduce rent for repairs, services or facilities agreed upon but not provided / and recovery of the filing fee.

Despite scheduling of the hearing in response to the tenants' application, neither tenant appeared.

The landlord's agent attended and gave affirmed testimony. During the hearing the landlord's agent made an oral request for an order of possession.

Issue(s) to be Decided

Whether either party is entitled to any of the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement, the fixed term of tenancy is from December 1, 2012 to November 30, 2013. The tenancy agreement provides that after November 30, 2013, the tenancy may continue on a month-to-month basis. Monthly rent of \$850.00 is due and payable in advance on the first day of each month, and a security deposit of \$425.00 was collected.

Pursuant to an agreement reached between the parties, payment of rent was waived for the first 6 months of tenancy (December 2012 to May 2013) in exchange for cleaning, renovations and repairs undertaken at the unit by the tenants. Regular payment of rent was to commence effective June 1, 2013.

Arising from rent of \$734.00 which remained unpaid when due on November 1, 2013, the landlord issued a 10 day notice to end tenancy for unpaid rent dated November 5, 2013. The notice was served by way of registered mail. Evidence provided by the landlord's agent includes the Canada Post tracking number for the registered mail, and the Canada Post website informs that the item was "successfully delivered."

A copy of the notice was submitted in evidence. The date shown on the notice by when the tenants must vacate the unit is November 19, 2013. While the tenants filed an application to dispute the notice on November 8, 2013, the outstanding amount of \$734.00 shown on the 10 day notice has not been paid, and the tenants continue to reside in the unit.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, forms and more can be accessed via the website: www.rto.gov.bc.ca

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord's agent, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent dated November 5, 2013. While the tenants filed an application to dispute the notice on November 8, 2013, they did not attend the hearing scheduled in response to their application. Further, the landlord's agent testified that the tenants have not subsequently paid the outstanding rent of \$734.00.

Section 26 of the Act speaks to **Rules about payment and non-payment of rent**, in part as follows:

26(1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

Section 55 of the Act addresses **Order of possession for the landlord**, in part:

55(1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,

- (a) the landlord makes an oral request for an order of possession, and
- (b) the director dismisses the tenant's application or upholds the landlord's notice.

Following from all the above, the tenants' application for cancellation of the 10 day notice is hereby dismissed, and I find that the landlord has established entitlement to an **order of possession**.

Further, in the absence of the tenants at the hearing scheduled in response to their application, all other aspects of the tenants' application are hereby dismissed.

Conclusion

The tenants' application is hereby dismissed in its entirety.

I hereby issue an **order of possession** in favour of the landlord effective **two (2) days** after service on the tenants. This order must be served on the tenants. 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.

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: January 07, 2014

Residential Tenancy Branch

