



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Nacel Properties Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes For the tenant: RP, ERP, RR
For the landlord: OPR, MNR

Introduction

This hearing was convened as a result of the parties' respective applications for dispute resolution under the Residential Tenancy Act (the "Act"). Although the remedies sought in each application were not similar, the applications were scheduled to be heard at the same.

The tenant applied for an order requiring the landlord to make repairs and emergency repairs to the rental unit and for an order allowing a reduction in rent.

The landlord applied for an order of possession for the rental unit due to alleged unpaid rent and a monetary order for unpaid rent.

The landlord attended; the tenant did not attend the telephone conference call hearing.

The landlord provided evidence that they served the tenant with their Application for Dispute Resolution and Notice of Hearing by registered mail on January 22, 2014. The landlord provided the registered mail receipt and customer receipt showing the tracking number.

Based upon the submissions of the landlord, I find the tenant was served notice of this hearing in a manner complying with section 89(1) of the Act and the hearing proceeded on the landlord's application in the tenant's absence.

Thereafter the landlord was provided the opportunity to present her evidence orally, refer to documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed the oral and written evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Preliminary matter-The landlord testified that the parties have now signed a mutual agreement to end the tenancy, and that the tenant is vacating the rental unit as of the last day of January 2014, which is the day of the hearing.

The landlord no longer sought an order of possession for the rental unit; however the landlord was unsure if they would still be entitled to unpaid rent for January 2014, due to having signed the mutual agreement to end the tenancy.

Preliminary Issue #1-Despite having her own application for dispute resolution set for hearing on this date and time, the application of the landlord and the Notice of these Hearings, the tenant did not appear.

Therefore, pursuant to section 10.1 of the Rules, I dismiss the application of the tenant, without leave to reapply.

Issue(s) to be Decided

Is the landlord entitled to unpaid rent due January 2014?

Background and Evidence

The landlord evidence shows that this tenancy began on December 17, 2012, that monthly rent is \$795, and that the tenant paid a security deposit of \$347.50 at the beginning of the tenancy.

The landlord gave evidence that on January 8, 2014, they served the tenant with a 10 Day Notice, by attaching it to the tenant's door, listing unpaid rent of \$795 as of January 1, 2014.

The 10 Day Notice informed the tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explained that alternatively the tenant had five days to dispute the Notice by making an application for dispute resolution.

The tenant did an application, but not to dispute the Notice.

The landlord testified that the tenant did not pay rent for January 2014. The landlord's relevant documentary evidence included a copy of the Notice and a written tenancy agreement.

Analysis

Based on the oral and written evidence and on a balance of probabilities, I find as follows:

As to the only remaining issue in the landlord's application, unpaid rent, under section 26 of the Act, a tenant is required to pay rent in accordance with the terms of the tenancy agreement and is not permitted to withhold rent without the legal right to do so.

I find the the tenant owed rent for the month of January 2014, due on January 1, 2014, and did not pay, resulting in the landlord issuing a 10 Day Notice.

I therefore approve the landlord's monetary claim for unpaid rent of \$795 for January 2014.

Conclusion

The tenant's application is dismissed.

The landlord's application is granted.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the amount of \$795, which I have enclosed with the landlord's Decision.

Should the tenant fail to pay the landlord this amount without delay after the order has been served upon her, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

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 31, 2014

Residential Tenancy Branch

