



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding O.J. REALTY & PROPERTY MANAGEMENT INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNR

Introduction

The tenant applied under the *Residential Tenancy Act* (the “Act”) to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10 Day Notice”).

The tenant, the owner/operator of the landlord company, and a property manager for the landlord company (the “agents for the landlord”) attended the hearing. The parties were provided with an opportunity to ask questions about the hearing process. The parties were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony evidence and to make submissions to me. I have reviewed all oral and documentary evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Landlord agent OJG confirmed receiving the tenant’s evidence and also confirmed that the landlord did not submit evidence in response to the tenant’s application.

Issue to be Decided

Should the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities be cancelled?

Background and Evidence

The parties agreed that a fixed term tenancy agreement began on December 1, 2010 and reverted to a month to month tenancy after December 1, 2011. Originally, monthly rent in the amount of \$1,400.00 was due on the first day of each month and was subsequently increased during the tenancy to the current monthly rent of \$1,450.00 per month. A security deposit of \$700.00 and a pet damage deposit of \$700.00 was paid by the tenant at the start of the tenancy.

The parties agree that a 10 Day Notice dated November 12, 2013 was received by the tenant on November 12, 2013. The tenant applied to dispute the 10 Day Notice on November 15, 2013. According to the 10 Day Notice, \$1,450.00 in unpaid rent was owed by the tenant which was due on November 1, 2013. The effective vacancy date on the 10 Day Notice is listed as November 22, 2013.

The tenant testified that due to “income issues” and problems related to him being “laid off” he has not paid rent for November 2013, December 2013 or January 2014. The

tenant confirmed that he continues to occupy the rental unit. Landlord agent OJG verbally requested an order of possession during the hearing.

Analysis

Based on the documentary evidence and the oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

10 Day Notice to End Tenancy for Unpaid Rent – The tenant testified that he has not paid rent for the months of November 2013, December 2013 or January 2014. The effective vacancy date on the 10 Day Notice is listed as November 22, 2013. The tenant continues to occupy the rental unit.

Section 26 of the *Act* requires that the tenant pay rent on the day that it is due in accordance with the tenancy agreement whether or not the landlord complies with the *Act*. Therefore, based on the above, **I find** the 10 Day Notice issued by the landlord to be **valid and is upheld** as the tenant failed to pay rent when it was due. The landlord made a verbal request for an order of possession. Pursuant to section 55 of the *Act*, **I must** grant the landlord an order of possession as a result. Therefore, **I grant** the landlord an order of possession effective two (2) days after service on the tenant as the effective date of the 10 Day Notice has already passed and the tenant continues to occupy the rental unit. This order may be filed in the Supreme Court of British Columbia and enforced as an order of that court.

I dismiss the tenant's application to cancel the 10 Day Notice as the tenant has confirmed that rent was not paid when it was due as required by section 26 of the *Act*.

Conclusion

The tenant's application to cancel the 10 Day Notice has been dismissed.

The landlord has been granted an order of possession effective two (2) days after service on the tenant. This order may be filed in the Supreme Court of British Columbia and enforced as an order of that court.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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 13, 2014

Residential Tenancy Branch

