



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Amacon Property Management Services Inc.
and [tenant name suppressed to protect privacy]

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?

Background and Evidence

The facts are not in dispute. The tenancy began in or about June 2013 and the tenants are obligated to pay \$750.00 in rent each month in advance on the first day of each month. The tenants failed to pay rent in the month of February 2014 and on February 2, the landlord served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent, which the tenants applied to dispute on February 7.

The tenants explained that they did not pay rent in February because the male tenant had lost his job. The tenants paid rent for the month of March, which the landlord accepted for use and occupancy only.

At the hearing, the landlord asked for an order of possession.

Analysis

Section 26(1) of the Act requires tenants to pay rent when it is due under the tenancy agreement unless they have the right to deduct the rent. There is no mechanism under the Act which gives the tenants a legal right to not pay rent when it is due because of a change in their financial circumstances. I find that the tenants did not have a legal right to withhold rent and I therefore find that the landlord has grounds to end the tenancy

and that the notice to end tenancy should not be set aside. I dismiss the tenants' application for dispute resolution.

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: April 01, 2014

Residential Tenancy Branch

