



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding West Hotel BC Ltd 0955802
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR

Introduction

This hearing was convened in response to an application by the Tenant pursuant to Section 46 of the *Residential Tenancy Act* (the “Act”) for an Order cancelling a notice to end tenancy.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the Tenant entitled to a cancellation of the notice to end tenancy?

Background and Evidence

No documentary evidence was provided by either Party.

The Tenant does not dispute the Landlord’s evidence that:

- the Tenant received a 10 day notice to end tenancy for unpaid rent (the “Notice”), signed by the Landlord;
- the Notice was issued on May 3, 2014;
- the Notice was served on May 3, 2014 by posting the Notice on the door; and
- the Notice sets out the amount of \$205.00 due as of May 1, 2014.

The Landlord states that the tenancy started in December 2013. The Tenant states that the tenancy started on November 1, 2012. There is no written tenancy agreement.

The Tenant states that in December 2013 the Landlord agreed to reduce her rent from \$550.00 to \$345.00 until improvements could be made to her unit that the Tenant states is in deplorable condition. The Tenant states that the rental amount of \$345.00 is paid directly to the Landlord

from her disability provider. The Tenant states that the Landlord had agreed to put the rent reduction agreement into writing but that the Landlord did not do that. The Tenant states that the Landlord has not provided rent receipts to the Tenant for the disability cheque payments. The Tenant states that the amount of \$345.00 has been paid every month from and including December 2014 as agreed. The Tenant states that no rents are owed.

The Landlord states that he only agreed to reduce the Tenant's rent for December 2013 as she was ill and told the Landlord that she could not pay the full amount of rent. The Landlord states that he did not agree to reduce the rent any longer than the one month. The Landlord does not dispute receiving a reduced rental amount since December 2013. The Landlord was unable to provide a clear response to the question of how he arrived at the amount indicated on the Notice and why it did not include any amounts for the period January to March 2014 inclusive.

Analysis

Section 46 of the Act provides that a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy. After hearing both Parties, I find the Tenant's evidence to be credible and persuasive. I find the Landlord's evidence to be inaccurate and uncertain. I also consider that the Notice does not include any rental shortfall for January to March 2014 inclusive. I therefore prefer the Tenant's evidence and find that the Tenant has substantiated on a balance of probabilities that an agreement exists between the Parties giving the Tenant a rent reduction to \$345.00 until the unit has been improved. The Notice is therefore not valid and the Tenant is entitled to a cancellation of the Notice. The tenancy continues.

Conclusion

The Notice is cancelled.

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: June 26, 2014

