



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNR OPR FF

Introduction:

This was an application by the tenant to cancel a Notice to End the Tenancy for non-payment of rent dated July 4, 2014. Both parties were present at the hearing.

SERVICE:

I find that the Notice to End a Residential Tenancy and the Application for Dispute Resolution were served personally.

Preliminary Issue:

The landlord requested that the landlord's name on the Application be amended to a numbered company. The tenant had no objection and confirmed that the rental cheques were made to this numbered company. The name on the Application, Decision and Order are amended accordingly.

Issues: Is the tenant entitled to any relief?

Background and Evidence:

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The tenant said the original tenancy began in July 2010, current rent is \$850 and she said she paid a security deposit of \$462.50 in July 2010. She said she moved to a different building with the same landlord in 2013 but she does not recall any adjustment being made to the security deposit although her rent went from \$925 to \$850. The landlord said that they bought the building a few months ago and on the statement of adjustments, these tenants are shown to have a security deposit of \$425 as of January 1, 2013. The parties were advised to provide proof of the amounts stated if there is an Application to claim against the deposit.

The tenant agreed that she still owed the balance of rent for July in the amount of \$450 but said she was in the process of moving out.

Analysis:

The Notice to End a Residential Tenancy is based on non-payment of rent. The *Residential Tenancy Act* section 46 permits a tenant to apply to have the Notice set aside where the tenant disputes that rent is owed or where the amount of rent that is unpaid is an amount the tenant is permitted under this Act to deduct from the rent. Although the tenant disputed the Notice, she did not pay the balance of her rent or file her Application within the 5 days permitted in the legislation section 46(4) to cancel the notice. Furthermore, she still owes rent for July. I therefore dismiss her application to cancel the Notice to End the Tenancy. Section 55(1)(a) provides that the arbitrator must grant an order of possession of the rental unit if the landlord makes an oral request for an order of possession at a hearing where an arbitrator has dismissed the tenant's application pursuant to section 46 and has upheld the Notice. The landlord has made this request at the hearing. As a result I grant the landlord an Order for Possession.

Conclusion:

I grant the landlord an Order for Possession effective two days from service. The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement. I dismiss the tenant's application in its entirety without recovery of the filing fee.

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: August 01, 2014

Residential Tenancy Branch

