



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KNL PROPERTIES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, FF

Introduction

This matter dealt with an application by the Tenants to cancel a Notice to End Tenancy for unpaid rent and to recover the filing fee for this proceeding.

The Tenant said they served the Landlord with the Application and Notice of Hearing (the “hearing package”) by registered mail. The Landlord said he received the hearing package on June 28, 2014 by express post. Based on the evidence of the Tenant and the Landlord, I find that the Landlord was served with the Tenants’ hearing package as required by s. 89 of the Act and the hearing proceeded with both parties in attendance.

Issues(s) to be Decided

1. Is the Tenant entitled to an order to cancel the Notice to End Tenancy?

Background and Evidence

This tenancy started on October 1, 2013 as a month to month tenancy. Rent is \$1,200.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$600.00 at the start of the tenancy and a pet deposit of \$600.00 on December 1, 2013.

The Landlord said he served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent and Utilities dated August 16, 2014. He served the Notice on August 16, 2014 by personal delivery to the female Tenant. The Effective Vacancy date on the Notice was August 27, 2014. The Tenants are living in the unit and the Landlord requested an Order of Possession if the Tenants’ application is unsuccessful.

The Landlord continued to say that the Tenants have unpaid rent of \$1,200.00 for August, 2014 and unpaid rent of \$1,200.00 for each month of September and October, 2014.

The Tenant said they have not paid the rent for August, September and October, 2014 as they are waiting to work out a payment agreement with the Landlord. The Tenant said they have done this before and have contacted the Landlord, but the Landlord has

not giving them any possible options for a repayment plan as of yet. The Tenants said they have made repairs and renovations to the rental unit that they are hoping will make up some of the unpaid rent that is outstanding at the present time. The Tenants said they hope they can work out some arrangement with the Landlord for the unpaid rent and be allowed to continue the tenancy.

The Landlord said they want to end the tenancy as soon as possible because of the unpaid rent.

Analysis

Section 26(1) says a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

The Tenant does not have the right to withhold all or a portion of the rent from the Landlord when it is due therefore; I find the Tenant has not established grounds to be granted an order to cancel the Notice to End Tenancy. The Landlord's 10 Day Notice to End Tenancy dated August 16, 2014 stands in effect and consequently, I find pursuant to s. 55(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect 2 days after service of the Order on the Tenants.

Conclusion

The Tenants' application to cancel the Notice to End Tenancy is dismissed without leave to reapply.

An Order of Possession effective 2 days after service of the Order on the Tenants has been issued to the Landlord. A copy of the Order must be served on the Tenants in accordance with the Act: the Order of Possession and may be enforced in the Supreme Court of British Columbia.

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: October 21, 2014

Residential Tenancy Branch

