



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0823734 BC LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR

Introduction

The landlord applies for an order of possession pursuant to a ten day Notice to End Tenancy for unpaid rent dated October 6, 2014.

The tenants did not dispute the Notice or pay the amount demanded in it within the five day period permitted by s. 46 of the *Residential Tenancy Act* (the “Act”) however, they say they reached a payment agreement with the landlord and so the Notice is no longer valid.

Issue(s) to be Decided

Did the landlord and tenants reach an agreement resulting in the withdrawal or cancellation of the ten day Notice in question?

Background and Evidence

The rental unit is a two bedroom apartment. The tenancy started in May 2013, though the tenants lived in another apartment in the building prior to that. The rent is currently \$745.00 per month, due on the first of each month. The landlord holds a \$372.50 security deposit.

The tenant Mr. G.P. does not dispute that the landlord's representative Mr. P. personally served the ten day Notice to End Tenancy on him on October 6, 2014. The \$761.39 amount demanded in the Notice has not been paid, though the tenant Mr. G.P.'s

disability provided has apparently forwarded the November and December rents to the landlord.

The tenant Mr. G.P. denies being served with the landlord's application and hearing notice until late November. He requested an adjournment to prepare for this hearing. The landlord's representative Mr. P. testified that the application and hearing notice were registered mailed to the tenant Mr. G.P. on October 24, 2014 at the dispute address, where the tenant was residing. He produced a receipt from Canada Post which shows that the package was mailed October 24th, that a card was left at the tenant's address and that a "final notice" was left by the post office at the tenant's address on November 5, 2014. The package was returned to the landlord marked "unclaimed by recipient."

I find that the mail was unclaimed by the tenant Mr. G.P. though he was given due notice. I find he was duly served with the application in accordance with s. 88 of the *Act* and cannot rely on his failure to claim the mail as a reason to extend this dispute process. I refused the tenants' request for an adjournment.

The tenant Mr. G.P. testifies that after receiving the Notice, his co-tenant Ms. P.P. made an agreement with "Y.....", the property manager, to pay the outstanding monies due. He did not know the particulars of the arrangement Ms. P.P. had reached with the property manager.

Ms. P.P. testified. She says it was her co-tenant Mr. G.P. who made the arrangements with the property manager. She did not know the details of the arrangement.

Ms. Y.T., the "Y....." property manager, testified. She says there has been no arrangement reached with the tenants. She says the tenants have merely promised payment and provided excuses when the payment did not materialize.

Analysis

The tenants, by the evidence they presented, have failed to establish on a balance of probabilities that there was an agreement or arrangement whereunder the landlord would withdraw or not enforce the ten day Notice to End Tenancy dated October 6, 2014. Neither tenant was clear on who made the arrangement or even what it was.

Conclusion

The landlord's application is allowed. The ten day Notice has resulted in the ending of this tenancy on October 17, 2014 and the landlord will have 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: December 02, 2014

Residential Tenancy Branch

