



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

Landlords' application filed December 31, 2014: OPR; MNR; FF

Tenant's application filed December 24, 2014: MT; CNR; MNR; MNDC; AS; RR; SS; O

Introduction

This Hearing was convened to consider cross applications. The Landlords seek an Order of Possession and a Monetary Order for unpaid rent; and to recover the cost of the filing fee from the Tenants.

The Tenant BR seeks an extension of time to file an application to cancel a notice to end tenancy; to cancel the Notice to End Tenancy issued December 19, 2014; a monetary order for the cost of emergency repairs; compensation for damage or loss under the Act, regulation or tenancy agreement; to allow the tenant to assign or sublet because the Landlord's permission has been unreasonably withheld; to allow the Tenant to reduce rent for repairs, services or facilities agreed upon but not provided; to serve documents or evidence in a different way than required by the Act; and "other" orders.

The Landlord and the Tenant gave affirmed testimony at the Hearing.

Preliminary Matters

The Tenant has stated on her Application that she is seeking an extension of time to file her application to cancel a notice to end tenancy. The Landlord testified that she posted the Notice to the Tenants' door on December 19, 2014. The Tenant acknowledged receiving the Notice on December 22, 2014. Section 46 of the Act allows a tenant 5 days from receipt of a notice to end tenancy for unpaid rent to file an application disputing the notice. In this case, the Tenant filed her application on December 24, 2014, and therefore I find that she filed her Application in time and there is no need to allow an extension.

The Landlord testified that she sent copies of the Notice of Hearing documents and a portion of her evidence to each of the Tenants, by registered mail, on January 5, 2015. The Landlord provided the receipts and tracking numbers for the registered documents. The Landlord stated that she had not had time to serve the Tenants with her rebuttal documents because she only received the Tenants' documents on January 16, 2015.

Rule 2.3 of the Rules of Procedure provides that claims made in an Application for Dispute Resolution must be related to each other. Arbitrators may use their discretion to dismiss

unrelated claims with or without leave to reapply. In this case, the main purpose of the cross applications is to deal with the Notice to End Tenancy issued December 19, 2014 (the "Notice"), which both parties have. I find that the remainder of the Tenants' application is not related to the main issue, to cancel the Notice, and therefore I dismissed the remainder of her application, **with leave to reapply**.

Likewise, the Landlord has not provided the Tenant with copies of all of her evidence package and therefore I dismiss the Landlord's application for a monetary award, **with leave to reapply**.

The Hearing continued with respect to the Tenant's application to cancel the Notice and the Landlord's application for an Order of Possession.

Issues to be Decided

- Is the Notice a valid notice to end the tenancy?

Background and Evidence

The Landlord testified that the Tenants did not pay rent when it was due on December 1, 2014. The Landlord stated that the Tenants did not pay rent when it was due on January 1, 2015, and that the Tenants owe her unpaid rent in the amount of \$2,200.00.

The Tenant acknowledged that rent has not been paid for two months. She stated that the other Tenant named in the Landlord's application was removed from the rental unit and no longer lives there. The Tenant stated that the tenancy agreement includes a provision for repairs and renovations to the rental unit in lieu of rent.

The Tenant stated that she had done emergency repairs to the rental unit. She stated that she did some carpet cleaning and changed the lock to the rental unit after the other Tenant had left. She stated that she sent the Landlord texts asking for the locks to be changed, but the Landlord did not change them. The Tenant testified that she has the receipts for the work that she has done.

The Tenants stated that she has not been granted an Order by the Director that she may deduct all or a portion of rent for repairs.

Analysis

The Tenant provided a large amount of oral testimony during the Hearing. I have only recorded her testimony that was relevant to the issues. The Tenant was extremely argumentative during the Hearing. I warned the Tenant, but she would not stop interrupting. I placed the Tenant on "mute", which means that she could hear the proceedings, but the Landlord and I could not hear her. After I had finished taking the Landlord's testimony, I took the Tenant off "mute" and gave her an opportunity to provide a final statement. She continued to give irrelevant testimony, citing legislation other than the Residential Tenancy Act and stating that this Hearing was "illegal".

Section 26 of the Act provides that rent must be paid when it is due, whether or not the Landlord complies with the Act, regulation or tenancy agreement, unless the Tenant has a right under the Act to deduct all or a portion of the rent. The Tenant does not have an Order allowing a rent reduction or abatement. The Tenant did not provide sufficient evidence that the tenancy agreement contains a provision for a rent reduction for work provided by the Tenant. The work that the Tenant stated she provided does not meet the definition of “emergency repairs” provided in Section 33 of the Act. The Tenant did not provide sufficient evidence that she had complied with Section 33(3)(a), (b), or (c) of the Act with respect to the repairs, or that the cost of repairs were equal to or more than the rent owed. Therefore, I find that the Tenant had no right to deduct rent and that the Notice is a valid notice to end the tenancy.

The Tenant’s application to cancel the Notice is dismissed and the Landlord’s application for an Order of Possession is granted.

I find that the Landlord is entitled to recover the cost of the filing fee from the Tenant. Pursuant to the provisions of Section 72 of the Act, the Landlord may deduct the cost of the filing fee from the security deposit.

Conclusion

The Tenant’s application to cancel the Notice to End Tenancy issued December 19, 2014, is dismissed. The remainder of the Tenant’s application is dismissed with leave to reapply.

I hereby provide the Landlord an Order of Possession **effective 2 days after service of the Order upon the Tenant**. This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The Landlord may deduct **\$50.00**, representing the cost of the filing fee, from the security deposit.

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: January 21, 2015

Residential Tenancy Branch

