



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OPR

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the landlords' 10 Day Notice to End Tenancy for Unpaid Rent, dated January 19, 2015 ("10 Day Notice"), pursuant to section 46.

The two respondent landlords, BC ("landlord") and "HS" (collectively "landlords"), appeared at the date and time set for the hearing of this matter. The applicant tenant did not appear at this hearing, although I waited until 10:03 a.m. to enable the tenant to connect with this teleconference hearing scheduled for 9:30 a.m.

HS confirmed that she is the owner of the rental building who recently hired "company HGRCL" as the property manager for the rental building. BC confirmed that she is the property manager of the rental building and that she has authority to speak on behalf of her employer, company HGRCL, at this hearing.

The landlord testified that she posted the 10 Day Notice on the tenant's door on January 19, 2015. The notice indicates an effective vacancy date of February 1, 2015. The tenant filed this application to cancel the 10 Day Notice and indicated on his application that he received the notice on January 20, 2015. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the landlords' 10 Day Notice on January 22, 2015, three days after its posting.

The landlord testified that the landlords received the tenant's application for dispute resolution hearing package ("Application"), by way of registered mail on January 28, 2015. In accordance with sections 89 and 90 of the *Act*, I find that the landlords were duly served with the tenant's Application.

At the hearing, the landlords orally requested an Order of Possession if the tenant's application for cancellation of the 10 Day Notice was dismissed.

Issues to be Decided

Should the landlords' 10 Day Notice be cancelled? If not, are the landlords entitled to an Order of Possession?

Background

The landlord testified that this tenancy began on August 1, 2012. The landlord provided a copy of the written tenancy agreement after the hearing, via facsimile, at my request. I considered the tenancy agreement in my decision. The landlord testified that monthly rent in the amount of \$690.00 is payable on the first day of each month; however, the tenancy agreement indicates that monthly rent is \$680.00 per month. The landlords did not indicate whether a valid notice of legal rent increase was provided to the tenant to increase the rent to \$690.00 per month. The landlord testified that a security deposit of \$345.00 was paid by the tenant and the landlords continue to retain this deposit. However, the tenancy agreement indicates that a security deposit of \$340.00 was due for this tenancy. The tenant continues to reside in the rental unit.

The landlord stated that another tenant, "HF," was previously occupying the rental unit with the tenant and sharing rent payments with him. The landlord indicated that HF was listed as a tenant on the tenancy agreement but HF did not sign the agreement. The landlord stated that the tenant was permitted to have another occupant in the rental unit with him, but the tenant was required to obtain permission from the landlord first. The landlord stated that HF may have already vacated the rental unit, but the landlords were unsure. The 10 Day Notice was issued to both the tenant and HF. The landlord stated that the tenant may currently have another occupant with him in the rental unit. However, the landlords indicated that the tenant had not obtained the landlords' permission to have any other occupants live in the rental unit with him, besides HF.

The landlord stated that the tenant signed the tenancy agreement and agreed to pay the entire monthly rent of \$690.00 regardless of whether another person occupied the rental unit with him. The landlord stated that the tenant had \$340.00 of his monthly rent paid directly to the landlords through social assistance and the tenant would pay \$350.00 cash to the landlords for the remaining rent portion.

The 10 Day Notice indicates that rent in the amount of \$3,110.00 was due on January 1, 2015. The landlord indicated that rent of \$4,140.00 total was due from September 2014 to February 2015, based on 6 months of rent at \$690.00 per month. The landlord stated that the tenant had only paid \$2,040.00 towards this above total amount; these payments were made by social assistance in the amount of \$340.00 each month from September 2014 to February 2015.

The landlord stated that all social assistance payments of \$340.00 per month, made on behalf of the tenant, were up to date; the landlord indicated that she received this information on the day before this hearing, February 16, 2015. The landlord stated that \$2,100.00 in rent was currently unpaid by the tenant. The landlord stated that the only rent payments made by the tenant since the 10 Day Notice was issued, were from social assistance, in the amount of \$340.00 on each of January 1 and February 1, 2015. No further payments were made by the tenant.

Analysis

Rule 10.1 of the Rules of Procedure provides as follows:

10.1 Commencement of the hearing: The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

Section 55(1) of the *Act* reads as follows:

55 (1) *If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director **must** grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,*

(a) the landlord makes an oral request for an order of possession, and

(b) the director dismisses the tenant's application or upholds the landlord's notice.

There is a \$10.00 discrepancy with respect to the current monthly rent amount owed by the tenant as per the tenancy agreement (\$680.00) and the landlords' testimony at this hearing (\$690.00). However, I am satisfied that the tenant does owe unpaid rent for this tenancy. I find that the 10 Day Notice is valid, even if the amount on the notice has since been amended by the landlords at this hearing.

Therefore, in the absence of any submissions from the tenant, I order the tenant's application dismissed without leave to reapply.

Based on my decision to dismiss the tenant's application for dispute resolution, I find that this tenancy ended on the effective date of the 10 Day Notice, February 1, 2015. Accordingly, I find that the landlords are entitled to a 2 day Order of Possession.

Conclusion

The tenant's application to cancel the landlords' 10 Day Notice, dated January 19, 2015, is dismissed without leave to reapply.

I grant an Order of Possession to the landlords effective **two days after service of this Order** on the tenant. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of 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: February 17, 2015

Residential Tenancy Branch

