



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF

Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the one month Notice to End Tenancy was sufficiently served on the Tenant by mailing, by registered mail to where the tenant resides on January 23, 2015. Further I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the landlord by mailing, by registered mail to where the landlord carries on business on January 29, 2015. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided:

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling the one month Notice to End Tenancy dated January 23, 2015?
- b. Whether the tenant is entitled to recover the cost of the filing fee?

Background and Evidence

The tenancy began on November 1, 2012. The tenancy agreement provided that the tenant(s) would pay rent of \$2375 per month payable on the first day of each month. The tenant(s) paid a security deposit of \$1187.50 at the start of the tenancy.

The landlord testified the tenant is repeatedly late paying the rent. The rent has been paid between the 8th and 10th of each month since the tenant took possession.

Grounds for Termination

The Notice to End Tenancy relies on section 47(1)(b) of the Residential Tenancy Act.

That section provides as follows:

Landlord's notice: cause

47 (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

...

(b) the tenant is repeatedly late paying rent;

The Policy Guideline provides that a tenant is repeatedly late paying the rent if the rent has been paid late 3 or more times.

Analysis

I dismissed the tenant's application to cancel the one month Notice to End Tenancy.

The rent has been paid late on a continuous basis since the tenant took possession.

The landlord has sufficient grounds to end the tenancy.

Determination and Orders

After carefully considering all of the evidence I determined that the landlord has established sufficient cause to end the tenancy. As a result I dismissed the tenant's application to cancel the Notice to End Tenancy. I order that the tenancy shall end on the date set out in the Notice. I further order that the application of the tenant for the cost of the filing fee be dismissed.

Order for Possession

The Residential Tenancy Act provides that where a landlord has made an oral request for an Order for Possession at a hearing where a dispute resolution officer has dismissed a tenant's application to set aside a Notice to End Tenancy, the dispute resolution officer must grant an Order for Possession. The landlord made this request at the hearing. As a result I granted the landlord an Order for Possession effective February 28, 2015.

Settlement:

The tenant represented that she could pay the rent for March and April prior to the end of February if the landlord would permit her to stay in the rental unit until the end of April. The landlord represented that if the tenant pays the rent for March and April prior to the end of February the tenant could stay in the rental unit until the end of April at which time the tenant must vacate the rental unit. However, if the tenant fails to make the payment as she represented the landlord would have the right to enforce the Order for Possession as set out in the Order.

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.

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

