



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Singla Homes (2005) Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR

Introduction

This hearing was convened to deal with the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act"). The tenant applied for an order cancelling a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice").

The tenant and the landlord's two representatives attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

Thereafter all parties were provided the opportunity to present their evidence orally, to refer to relevant documentary evidence submitted prior to the hearing, respond each to the other's evidence, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Preliminary issue #1-The landlord's agent (hereafter "landlord") confirmed that they did not serve their documentary evidence to the tenant as required by the Rules, and therefore, as a result, I have not taken the landlord's evidence into consideration for the purposes of this Decision.

Issue(s) to be Decided

Is the tenant entitled to an order cancelling the Notice?

Background and Evidence

Neither party submitted a copy of the written tenancy agreement.

The tenant stated her tenancy began on March 1, 2014, monthly rent was \$1400.00, due on the 1st day of the month, and that she paid a security deposit of \$700.00.

The landlord stated that the tenant signed a tenancy agreement on July 1, 2014, listing the tenant and 2 other parties as tenants. The landlord referred to the other listed tenants as roommates, but all parties confirmed that the 3 listed tenants were co-tenants.

Both parties submitted that the tenant typically has roommates to assist her in paying the monthly rent.

Pursuant to the Rules, the landlord proceeded first in the hearing to explain or support the Notice to End Tenancy.

The landlord stated that the tenant was served with the Notice on February 4, 2015, by leaving it with the tenant, listing unpaid rent of \$1400.00 as of February 1, 2015. The effective move-out date listed was February 14, 2015. The tenant submitted a copy of the Notice.

The landlord asserted that since the issuance of the Notice, the tenant has not made any rent payments and now owes rent for the month of March 2015, as well.

The landlord also submitted that the other 2 listed tenants gave the landlord a written notice to vacate and a release of tenancy, and they vacated the rental unit on December 31, 2014.

The landlord also verbally requested an order of possession for the rental unit.

In response, the tenant admitted that she had not paid the rent listed on the Notice or for March 2015, but that she had offered to make payments on the rent deficiency. In explanation, the tenant submitted that she requires roommates to help pay the rent, and that her roommates had not paid their portion of rent, necessitating a search for a new roommate.

Analysis

In the case before me, I accept a tenancy was created on July 1, 2014, when this tenant and 2 other tenants signed the written tenancy agreement, as co-tenants. I likewise accept that that tenancy ended on December 31, 2014, when 2 of the co-tenants vacated the rental unit. When a tenancy ends for 1 or more co-tenants, the tenancy ends for all, as all parties are jointly and severally liable for the rights and obligations under the Act.

I further accept that beginning January 1, 2015, a new tenancy was created, though not by written tenancy agreement, between the landlord and this tenant, as the tenant remained in the rental unit and paid monthly rent of \$1400.00 for January 2015. I therefore find the tenant was responsible for monthly rent of \$1400.00.

Pursuant to section 46 of the Act, when a tenant fails to pay rent when due, the landlord may serve the tenant with a 10 Day Notice for Unpaid Rent. Upon receipt of the 10 Day Notice, the tenant must pay the outstanding rent listed or dispute the Notice within 5 days. In this case, the

tenant disputed the Notice by filing her application; however, when a Notice is disputed, the tenant must be able to demonstrate that they did not owe the landlord rent or had some other legal right to withhold rent.

Upon hearing from the parties, I am satisfied that the tenant owed the landlord the rent listed when the Notice was issued and that she did not pay all or any of the rent owed to the landlord within 5 days of receiving the Notice. I also find that the tenant did not establish that she had the legal right to withhold the rent owed.

Therefore, I find the tenancy has ended for the tenant's failure to pay rent and the landlord is entitled to regain possession of the rental unit. As a result, I dismiss the tenant's application seeking cancellation of the Notice, without leave to reapply.

At the landlord's request, I find that the landlord is entitled to and I therefore grant a final, legally binding order of possession for the rental unit effective 2 days after service upon the tenant, pursuant to section 55(1) of the Act. The order is enclosed with the landlord's Decision. Should the tenant fail to vacate the rental unit pursuant to the terms of the order after it has been served upon her, this order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court.

The tenant is advised that costs of such enforcement are recoverable from the tenant.

Conclusion

The tenant's application seeking cancellation of the 10 Day Notice is dismissed, without leave to reapply.

The landlord is granted an order of possession for the rental unit.

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: March 10, 2015

Residential Tenancy Branch