



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNR

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* for an order to set aside the notice to end tenancy for unpaid rent.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Issues to be decided

Does the landlord have reason to end the tenancy or should the notice to end tenancy be set aside and the tenancy be allowed to continue?

Background and Evidence

The tenancy started in January 2012. Neither party filed a tenancy agreement. The monthly rent is \$1,400.00 payable on the first of each month.

The landlord stated that several of the tenant's rent cheques were returned for insufficient funds and the amount of unpaid rent kept increasing. Finally on March 13, 2015, the landlord served the tenant with a notice to end tenancy for \$4,200.00 in unpaid rent. The tenant was unsure of his dates but agreed that he received the notice on March 13, 2015. The tenant filed an application to dispute the notice on March 18, 2015 and stated that he paid the landlord rent for March on the next day when he served the landlord with a notice of hearing. Based on the tenant's testimony, I find that it is more likely than not that the tenant paid rent for March on March 19, 2015.

The tenant argued that the amount of unpaid rent as indicated on the notice to end tenancy is incorrect but he agreed that he had failed to pay rent for April and at the time of the hearing owed the landlord \$1,400.00 for April.

Analysis

Based on the sworn testimony of both parties, I find that the tenant received the notice to end tenancy for unpaid rent, on March 13, 2015 and did not pay rent within five days of receiving the notice to end tenancy and the time to do so has expired. In these situations, the *Residential Tenancy Act* provides that the tenant has been deemed to have accepted the end of the tenancy, on the date set out in the Notice and must vacate the rental unit by that date. Accordingly, the notice to end tenancy is upheld and therefore the tenant's application to cancel the notice is dismissed.

During the hearing the landlord made a request under section 55 of the legislation for an order of possession.

Under the provisions of section 55(1), upon the request of a landlord, I must issue an order of possession when I have upheld a notice to end tenancy. Accordingly, I so order. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Conclusion

The notice to end tenancy is upheld and I grant the landlord an order of possession effective two days after service on the tenant.

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: April 22, 2015

Residential Tenancy Branch

