



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MNDC

Introduction

The Application for Dispute Resolution filed by the Tenant seeks the following:

- a. An order to cancel the 10 day Notice to End Tenancy dated May 23, 2016
- b. A monetary order in the sum of \$25,000.

A hearing was conducted by conference call in the presence of the applicant and in the absence of the respondent although duly served. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

I find that the 10 day Notice to End Tenancy was personally served on the Tenant on May 23, 2016. Further I find that the Application for Dispute Resolution/Notice of Hearing was served on the landlord by mailing, by registered mail to where the landlord resides on May 29, 2016. 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 10 day Notice to End Tenancy dated May 23, 2016?
- b. Whether the tenant is entitled to a monetary order and if so how much?
- c. Whether the tenant is entitled to recover the cost of the filing fee?

Background and Evidence

The tenancy began approximately 5 to 6 years ago. The rental unit was in poor condition and the tenant spent time and money renovating the rental unit. He testified the landlord agreed she would reimburse him for his work. Further, there was an agreement that the tenant would be responding for managing the property and that he was entitled to retain any amounts earned over \$1900 per month. The rooms in the rental property have been rented for \$2600. The tenant was paying rent of \$400 from

the Ministry. The landlord would reimburse him \$200 of that payment. However, the tenant has not paid any rent for the last year as a set off for the monies the landlord owes him.

Analysis – Application to cancel the 10 day Notice to End Tenancy::

The landlord has the burden of proof to establish sufficient cause to end the tenancy. The landlord failed to attend the hearing and failed to present evidence that the tenant owes rent. As a result I ordered that the 10 day Notice dated May 23, 2016 be cancelled. The tenancy shall continue with the rights and obligations of the parties remaining unchanged.

The landlord is put on notice that she does not have authority to change the locks and deal with the tenant's belongings until she has first obtained an Order for Possession from the Residential Tenancy Branch, a Writ of Possession from the Supreme Court of British Columbia and retained the services on the bailiff. This has not been done and the tenant is entitled to live in the rental unit.

Application for a Monetary Order::

I ordered the tenant's application for a monetary order be dismissed with liberty to re-apply. It is difficult to understand exactly what claim the tenant is making in this regard. The tenant has failed to file a Monetary Order Worksheet as required by the Rules. The tenant failed to sufficiently identify his claims or present sufficient evidence to support these claims. I determined the appropriate disposition of this claim is to dismiss it with leave to re-apply.

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: June 27, 2016

Residential Tenancy Branch