



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OCL, OPR

Introduction

This hearing was convened in response to cross-applications by the parties

The applicant tenant sought for the landlord to be ordered to comply with the Act.

The landlord sought an Order of Possession due to unpaid rent.

The applicant tenant testified they served both of the respondents in their application. Both applicant and respondent appeared in the conference call hearing and participated with their submissions and testimony. The applicant tenant advised they are still residing in the rental unit.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the landlord entitled to an Order of Possession?

Should the landlord be ordered to comply with the Act?

Background and Evidence

The testimony of the landlord is that the tenancy began December 2002. Rent in the amount of \$900.00 is payable in advance on the first day of each month. The tenancy is for a 2 level rental unit in a house. The occupants of the tenancy consist of the original tenant (RM) and their “on and off” girlfriend, the applicant tenant (MS). The

original tenant vacated August 31, 2016 pursuant to a 10 Day Notice to End for Unpaid rent issued by the landlord on August 04, 2016. MS claims they have been living at the rental unit since May 2016 and were paying a portion of the rent to their room-mate and original tenant RM. The tenants failed to pay rent in the month of August 2016 and the landlord served the original tenant with a notice to end tenancy for non-payment of rent. The original tenant determined to vacate in accordance with the Notice to End, however the room-mate determined not to vacate. Regardless, the room-mate and applicant tenant in this matter have not paid the landlord any rent as of August 2016 as they claim they paid it to the roommate responsible for paying the rent. The landlord seeks an immediate Order of Possession. The applicant tenant seeks for the landlord to be compelled to issue another notice to end for unpaid rent.

Analysis

It must be known that a Notice to End a tenancy operates to end the *tenancy* in its entirety. It does not operate to end the tenancy for a specific tenant / occupant. Based on the testimony and evidence of the landlord and of the applicant tenant I find that the tenant, and effectively all occupants of the tenancy were served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The tenant did not pay the outstanding rent and did not apply for Dispute Resolution to dispute the notice and were therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. The original tenant vacated August 31, 2016. The roommate and applicant tenant, chose not to vacate. Based on the above facts I find that the tenancy ended in accordance with the Notice to End. Based on the above facts and the circumstances of this matter I find that the landlord is entitled to an **Order of Possession**, with the effect that the applicant tenant's application is hereby **dismissed**.

So as to perfect the circumstances in this matter, **I grant an Order of Possession** to the landlord stating it is **effective 2 days from the day it is served**. The Order must be served by any method prescribed by **Section 88** of the Act. Should all tenants 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 applicant tenant's application is dismissed.

The landlord's application is granted.

This Decision is final and binding on all parties

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: November 08, 2016

Residential Tenancy Branch