



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, FF

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 February 16, 2017.
- b. An order to recover the cost of the filing fee.

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. I dismissed the tenant's application for an adjournment so that she could file an amendment to make a monetary claim. I determined such an adjournment was not appropriate. The tenant has the right to file a new claim seeking compensation but it is not appropriate that it be part of this application. 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 10 day Notice to End Tenancy was personally served on the Tenant on February 16, 2017. 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 February 28, 2017. 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 February 16, 2017?
- b. Whether the tenant is entitled to recover the cost of the filing fee?

Background and Evidence

This is a sublet. The respondent sublet the rental unit to the applicant as he was out of town for a short period of time. The tenancy began on January 1, 2017 when the parties entered into a 4 month fixed term tenancy agreement that provided that the tenancy would end on April 30, 2017. The tenancy agreement provided that the tenant(s) would pay rent of \$750 per month payable in advance on the 5th day of each month. The tenant(s) paid a security deposit of \$375 at the start of the tenancy.

The tenant testified there were problems with the international transfer of funds to pay the rent. Further, she was not able to pay the rent for January 2017 as the landlord gave her an incorrect

address. However, she testified the landlord unlawfully and illegally forced her to vacate the rental unit at the end of February and she intends to file an Application for Dispute Resolution seeking a monetary order. The tenant testified she has no interest in the tenancy being reinstated and moving back to the rental unit.

Analysis:

The 10 day Notice to End Tenancy is on the approved government form. The tenant acknowledged the rent for January and February has not been paid. Further, the tenant has no interest in reinstating the tenancy. As a result I ordered that the application of the Tenant to cancel the 10 day Notice to End Tenancy be dismissed without leave to re-apply. I also dismissed the Tenant's application to recover the cost of the filing fee.

Order for Possession:

The Residential Tenancy Act provides that where an arbitrator has dismissed a tenant's application to cancel a Notice to End Tenancy, the arbitrator must grant an Order for Possession. As a result I granted the landlord an Order for Possession forthwith.

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.

The tenant testified she has claims for compensation against the landlord for illegally forcing her to vacate the rental unit. The landlord testified he has claim for non-payment and loss of rent. The parties attempted to settle this dispute at the hearing but were unsuccessful. Both parties retain the right to file an Application for Dispute Resolution making their respective claim.

This decision is final and binding on the 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: March 22, 2017

Residential Tenancy Branch