



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Vancouver Eviction Services
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

Tenants' Application made March 21, 2016: CNR; MNDC; MNR; O; RR; FF

Landlords' Application made March 28, 2016: OPR; MNR; MNDC; FF

Introduction

This Hearing was scheduled to consider cross-applications. The Tenants seek to cancel a Notice to End Tenancy for Unpaid Rent; a monetary award for emergency repairs and compensation for damage or loss; a rent reduction; other unspecified orders; and to recover the cost of the filing fee from the Landlord DA.

The Landlord DA and his agent VES seek an Order of Possession; a monetary award for unpaid rent and loss of revenue; and to recover the cost of the filing fee from the Tenants. On April 5, 2017, the Landlord's agent VES amended the Landlord's Application to reflect the correct address for the rental unit and the Tenants' mailing address.

The parties gave affirmed testimony at the Hearing.

The Landlord's agent SA testified that she mailed each of the Tenants copies of the Notice of Hearing documents on April 7, 2017, by registered mail. SA provided the tracking numbers for the registered mail.

The Tenant RB testified that he served the Landlord DA with the Tenants' Notice of Hearing documents by registered mail; however, he did not have the tracking number.

The Tenants' Application named a person who is not a Tenant as an Applicant. I explained that the Residential Tenancy Branch decides matters relating to landlords and tenants only and the name of non-tenant was removed from the list of Applicants. The Landlords' Application named 5 Tenants, three of whom were not on the Tenants' Application. The Tenant RB confirmed that all 5 of the Tenants named in the Landlords'

Application were tenants under the same tenancy agreement and therefore the Tenants' Application was amended to include all 5 of the Tenants.

Issue(s) to be Decided

Should the Notice to End Tenancy for Unpaid Rent issued on March 16, 2017 (the "Notice"), be upheld or cancelled?

Are the Landlords entitled to a monetary award for unpaid rent for the months of February, March and April, 2017?

Are the Tenants entitled to a monetary award and a rent reduction?

Background and Evidence

The Landlords provided a copy of the two-page Notice in evidence, parts of which are unreadable. The Tenants did not provide a copy of the Notice in evidence. The parties agreed that the Notice provides that the Tenants owe outstanding rent in the amount of \$6,600.00 as of March 15, 2017. The Landlord's agent SA testified that the Notice was issued on March 16, 2017, and posted to the door of the rental unit on March 16, 2017. The Tenant RB acknowledged receiving the Notice on March 19, 2017. The Landlord's agent's printed name and signature is readable on the form. I find that the Notice complies with Section 52 of the Act.

Neither party provided a copy of the tenancy agreement; however, the parties agreed that the tenancy began on February 15, 2017. Monthly rent is \$3,300.00. SA stated that the tenancy agreement provides that rent is due on the 1st day of each month; however, she stated that the Landlord agreed to accept rent on the 15th day of each month. No security deposit or pet damage deposit was paid.

The Tenant RB acknowledged that no rent has been paid, but stated that the Landlord and the Tenants had a verbal agreement that the Tenants would "paint and fix" the rental unit and the fence around the rental property in lieu of rent payments. The Tenant RB and the Tenant JR both testified that the Tenants have made repairs, but that the Landlord AD still expects rent to be paid contrary to their agreement. The Tenant RB stated that he provided documentary evidence, including photographs of the rental property and invoices, to the Residential Tenancy Branch by fax on "Monday". I advised the Tenants that the Residential Tenancy Branch does not have any documentary evidence from the Tenants. RB then stated that he mailed the documentary evidence to the Residential Tenancy Branch and to the Landlord DA, by

registered mail, on April 24, 2017. RB stated that he did not have the registered mail receipt with him and therefore could not provide the tracking numbers.

The Landlord DA disputed having any agreement with the Tenants that they could paint or make repairs to the rental property in exchange for rent.

Analysis

This was a difficult Hearing because I had trouble communicating with the Tenants, as English is not their first language.

The burden of proof lies with the party making a claim. I find that the Tenants provided insufficient evidence of an agreement between the parties with respect to making repairs in lieu of rent. The Landlord DA disputed an oral agreement and no agreement was made in writing.

Based on the testimony of both parties, I find that monthly rent in the amount of \$3,300.00 remains outstanding for February 15, March 15, and April 15, 2017, for a total of \$9,900.00. I find that the Landlords are entitled to an Order of Possession and a monetary award in the amount of \$9,900.00 for unpaid rent.

The Landlords have been successful in their Application and I find that they are entitled to recover the cost of the \$100.00 filing fee from the Tenants.

Rule 2.3 of the Rules of Procedure provides that claims made in an Application for Dispute Resolution must be related to each other. I find that the Tenants' applications for compensation for work provided to the Landlord AB, and for compensation for emergency repairs completed by the Tenants, are not sufficiently related to unpaid rent and therefore, this portion of their Application is **dismissed with leave to reapply**. If the Tenants decide to make another Application, they are strongly advised to speak to an information officer at the Residential Tenancy Branch with respect to service of documents and procedural requirements.

The tenancy is over and therefore, the Tenants' application for a rent reduction is dismissed.

The Tenants have not been successful in their Application and therefore are not entitled to recover the cost of the filing fee from the Landlord.

Conclusion

The Tenants may re-apply with respect to their request for monetary compensation for emergency repairs and regular repairs made at the rental unit. The remainder of their Application is dismissed.

The Landlords are hereby provided with an Order of Possession **effective 2 days after service of the Order upon the Tenants**. This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The Landlords are hereby provided with a Monetary Order in the amount of **\$10,000.00** for service upon the Tenants. This represents unpaid rent for February, March and April, 2017, along with recovery of the \$100.00 filing fee. This Order may be filed in the Provincial Court of British Columbia (Small Claims Division) and enforced as an Order of that Court.

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 26, 2017

Residential Tenancy Branch