



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

Tenants' Application made May 1, 2017: CNC; FF; O
Landlords' Application made May 7, 2017 and amended May 16, 2017: OPC; MNDC; FF

Introduction

These matters were scheduled to be heard by teleconference on June 8, 2017. Both parties signed into the teleconference. The Tenants seek to cancel a One Month Notice to End Tenancy for Cause; to recover the cost of the filing fee from the Landlords; and other unspecified orders.

The Landlords seek an Order of Possession and to recover the cost of the filing fee from the Tenants. On May 16, 2017, they amended their Application to include a request for a monetary award for loss of revenue for the month of June, 2017.

The parties gave affirmed testimony at the Hearing. It was established that the Tenants duly served the Landlords with their Notice of Hearing and documentary evidence. It was also determined that the Landlords duly served the Tenants with their Notice of Hearing documents, including their amended Application, and their documentary evidence.

Issue(s) to be Decided

Is the Notice to End Tenancy valid? Are the Landlords entitled to a monetary award?

Relevant Background and Evidence

The Landlords hand delivered a One Month Notice to End Tenancy for Cause to the Tenant DL on April 23, 2017. The Notice to End Tenancy gives the following reason for ending the tenancy:

Tenant is repeatedly late paying rent.

Monthly rent is \$2,300.00, due on the first day of each month.

The Landlord's agent testified that the Tenants have been late paying rent for the following months:

1. November, 2015: rent cheque returned to Landlord November 23, 2015, "payment stopped"
2. October, 2016: \$2,200.00 paid on October 2, 2016 and \$100.00 on October 3, 2016
3. January, 2017: \$1,700.00 paid on January 3, 2017 and \$600.00 paid "a few days later".
4. March, 2017: \$1,500.00 paid on March 2, 2017 and \$800.00 on March 9, 2017

The Landlords acknowledged that the Tenants have paid \$2,300.00 for June, 2017.

The Landlords provided a copy of the "returned item notice" and copies of e-mails from the Tenant JW regarding partial and late payments.

The Tenant JW testified that she does not recall the November, 2015, incident. With respect to the remaining three incidents, she acknowledged that full rent had not been paid when it was due, but stated that she usually communicated with the Landlord RA and that he always accepted the late payments and thanked her for the "heads up".

Analysis

Section 26(1) of the Act provides:

26 (1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

Section 47(1)(b) of the Act provides that a landlord may end a tenancy if the tenant is repeatedly late paying rent.

Residential Tenancy Branch Policy Guideline 38 provides that three late payments constitute "repeatedly late" payment of rent. I find that the Tenants were late paying rent at least 3 times.

I find that the Notice to End Tenancy is valid and that the Landlords are entitled to end the tenancy for repeated late payment of rent. The Tenants' Application is dismissed.

The Landlords' application for a monetary award is dismissed. I find that the Tenants have paid for use and occupancy of the rental unit for the month of June, 2017, and that Landlords are entitled to an Order of Possession effective 1:00 p.m., June 30, 2017.

I find that the Landlords are entitled to recover the cost of the **\$100.00** filing fee from the Tenants, which may be deducted from the security deposit. The remainder of the security deposit must be dealt with in accordance with the provisions of the Act.

Conclusion

The Landlords are hereby provided with an Order of Possession effective **1:00 p.m., June 30, 2017**. This Order must be served on the Tenants and may be enforced through the Supreme Court of British Columbia.

The Landlords may deduct \$100.00, representing recovery of the filing fee, from the security deposit.

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 08, 2017

Residential Tenancy Branch