



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MNDC, MT

Introduction

This is an application, brought by the tenant, requesting an order canceling a Notice to End Tenancy that was given for nonpayment of rent, and requesting a monetary order for \$7000.00.

The applicant testified that the respondent(s) were both served with notice of the hearing, by hand, on May 10, 2017; however the respondent(s) did not join the conference call that was set up for the hearing.

It is my finding that the respondent(s) have been properly served with notice of the hearing, and I therefore conducted the hearing in the respondent's absence.

All testimony was taken under affirmation.

Issue(s) to be Decided

The issues are, whether to cancel or uphold a Notice to End Tenancy that was given for nonpayment of rent, and whether or not the applicant has established monetary claim against the respondents, and if so in what amount.

Background and Evidence

The applicant testified that this tenancy began on November 1, 2016 with a monthly rent of \$600.00.

The applicant testified that she is in an employment dispute with the landlords and believes that the landlords owe her \$7000.00 in outstanding payments for her work in

their medical marijuana facility, and therefore she has withheld the rent in an attempt to get the landlords to pay the money owed.

The applicant testified that she does understand that rent is outstanding however, since the landlords owe her money, she is asking that the Notice to End Tenancy be canceled.

The applicant is also requesting a monetary order for the \$7000.00 in outstanding payments, for her work at the medical marijuana facility.

Analysis

First of all, it is my finding that I do not have jurisdiction over the tenants \$7000.00 claim as this is a labour dispute, and is not related to the residential tenancy. The Residential Tenancy Act only has jurisdiction over disputes that arise from the residential tenancy.

It is my decision that I will not cancel the Notice to End Tenancy as the tenant admits that the rent is outstanding and that she has withheld the rent in an attempt to pressure the landlords to pay her some money she believes is owed to her, for work she has done in their medical marijuana facility.

Section 26 of the Residential Tenancy Act states:

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.

In this case, there is no evidence to show that the tenant had any right to deduct any money from the rent.

Further section 46 of the Residential Tenancy Act states:

46 (1) A landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice.

Therefore, in this case, since the tenant has admitted that she withheld the rent, it is my decision, pursuant to section 62 of the Residential Tenancy Act, that the landlord did

have the right to end the tenancy with the ten-day Notice to End Tenancy, and I will not set the notice aside, and this application is therefore dismissed.

Section 55 of the Residential Tenancy Act states:

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if

(a) the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and

(b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

In this case I have examined the Notice to End Tenancy and it is my finding that it does comply with section 52 of the Act.

Conclusion

The application to cancel the 10 day Notice to End Tenancy has been dismissed without leave to re-apply, and, having determined that the landlord's notice to end tenancy complies with section 52 of the Act, I have issued an Order of possession, pursuant to Section 55 of the Act, enforceable 2 days after service on the tenant.

I have declined jurisdiction over the monetary portion of this claim.

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 13, 2017

Residential Tenancy Branch