



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

The Application for Dispute Resolution filed by the Tenant seeks an order to cancel the one month Notice to End Tenancy dated May 26, 2017 and setting the end of tenancy for June 30, 2017.

A hearing was conducted by conference call in the presence of the applicant and the Advocate for the Tenant. The Advocate stated she expected the Tenant would appear for the hearing. The Tenant failed to appear. 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. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present. The Advocate for the Tenant stated she had not received the landlord's documents. The landlord testified the documents were sent by registered mail. A search of the Canada Post tracking service indicates the Tenant picked up the documents on June 28, 2017.

I find that the Notice to End Tenancy was personally served on the Tenant on May 26, 2017. Further I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the landlord in early June 2017.

Issue(s) to be Decided

The issue to be decided is whether the tenant is entitled to an order cancelling the Notice to End Tenancy dated May 26, 2017?

Background and Evidence

The tenant moved into another unit in the rental property in March 2011. He moved to the rental unit which is the subject of this tenancy on June 15, 2006. The tenancy agreement provided that the tenant(s) would pay rent of \$600 per month payable in advance on the first day of each month. The records are incomplete but it appears that tenant paid a security deposit of \$250 in 2011.

Grounds for Termination:

The Notice to End Tenancy identifies the following grounds:

- Tenant is repeatedly late paying rent

The Policy Guidelines provides that 3 late payments can amount to repeatedly late payment.

The landlord testified as follows:

- The rent for August 2016 was late and the landlord served a 10 day Notice to End Tenancy dated August 2, 2016.
- The rent for January 2017 was late and the landlord served a 10 day Notice to End Tenancy dated January 3, 2017.
- The rent for March 2017 was late and the landlord served a 10 day Notice to End Tenancy on March 2, 2017.
- The rent for April 2017 was late and was not fully paid until May 8, 2017.
- The rent for May 2017 was late and was not paid in full until late May 30, 2017

The landlord served a written letter dated April 4, 2017 warning the Tenant that if there was any further late payments the landlord would serve a one month Notice to End Tenancy.

The rent for July was paid and the landlord accepted the payment for “use and occupation only.”

Analysis:

I determine the landlord is entitled to an Order of Possession. The tenant has paid the rent late on more the 3 occasions. The Advocate for the Tenant stated she thought the late payments may have been caused by ill health. However, the tenant did not attend the hearing and failed to present evidence to prove this allegation.

Determination and Orders:

After carefully considering all of the evidence I determined that the landlord has established sufficient cause to end the tenancy. As a result I dismissed the tenant's application to cancel the one month Notice to End Tenancy. I order that the tenancy shall end. I further order that the application of the tenant for the cost of the filing fee be dismissed.

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 effective July 31, 2017.

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.

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: July 19, 2017

Residential Tenancy Branch