



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, O

Introduction

The Application for Dispute Resolution filed by the Tenant seeks an order to cancel the one month Notice to End Tenancy May 16, 2017.

The applicant failed to contact the telephone bridge number at the scheduled start of the hearing. The respondents were present and ready to proceed. The telephone line conference line remained open and the phone system was monitored for ten minutes. The applicant failed to appear. I then proceeded with the hearing.

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.

I find that the one month Notice to End Tenancy in the approved form was personally served on the Tenant on May 16, 2017. The Application for Dispute Resolution was submitted online on May 26, 2017. The Application for Dispute Resolution was returned to the applicant on June 8, 2017 along with a hearing letter. The respondents testified the applicant has failed to serve them with a copy of the Application. They only became aware of it in July when they filed their own Application for Dispute Resolution and were advised by the Residential Tenancy Branch Registry that because of time constraints they could not schedule the landlord's application at the same time as the Tenant's Application. The tenant has not cancelled this hearing.

With respect to each of the applicant's claims I find as follows:

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 16, 2017?

Background and Evidence

The tenant initially entered into a one year fixed term tenancy commencing January 9, 2016. He signed a subsequent one year fixed term tenancy commencing July 10, 2017 and ending on January 9, 2018. The tenancy agreement provided that the tenant(s) would pay rent of \$2000 per month payable in advance on the first day of each month. The tenant(s) paid a security deposit of \$1000 and a pet damage deposit of \$500 at the start of the first fixed term tenancy.

Grounds for Termination:

The Notice to End Tenancy identifies the following grounds:

- Tenant is repeatedly late paying rent

The landlords testified the Tenant made the following late payments in 2017:

- The rent for May was not paid until May 15, 2017.
- The rent for April was not paid until April 5, 2017
- The rent for March was not paid until March 8, 2017
- The rent for February was not paid until February 3, 2017
- The rent for January was not paid until January 9, 2017.

Analysis:

The tenant failed to attend the hearing and failed to present evidence. In the absence of evidence from the Tenant **I order the application of the Tenant be dismissed without liberty to re-apply.**

Further, I determined the tenant's application should be dismissed without leave to re-apply as the tenant failed to serve the respondents within the time requirements set out in the Act.

Finally, I determined the landlord has grounds to end the tenant on the basis of repeated late payments of rent. The Policy Guideline provides that 3 late payments are needed before the landlord can end the tenancy on this ground. There have been more than 3 late payments.

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 on 2 days notice.

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 31, 2017

Residential Tenancy Branch