



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PACIFIC COVE PROPERTIES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: *CNR, RR*

Introduction

This hearing dealt with an application by the tenant for an order to set aside a notice to end tenancy for nonpayment of rent. The tenant also applied for a rent reduction.

Both parties attended the hearing and had opportunity to be heard. The landlord acknowledged receipt of evidence submitted by the tenant. Both parties gave affirmed testimony.

Issue to be Decided

Does the landlord have grounds to end this tenancy? Is the tenant entitled to a rent reduction?

Background and Evidence

The tenancy began in March 2014. The monthly rent was \$553.00 but as of July 01, 2017 the rent was raised to \$573.00. The landlord testified that the tenant was served a notice of the rent increase in February 2017 which took effect in July 2017,

On July 06, 2017, the landlord served the tenant with a notice to end tenancy for non-payment of rent in the amount of \$723.00. The tenant disputed the notice in a timely manner but did not pay the outstanding rent. The tenant agreed that he owed \$400.00 in unpaid rent.

The tenant stated that he had painted the rental unit and done some maintenance work for which the landlord owed him. The tenant stated that the agreement between the landlord and himself, to do this work was verbal. The landlord denied having agreed to allow the tenant to carry out maintenance and stated that he gave the tenant a maintenance form and asked him to fill it out.

The tenant did not return the form to the landlord but proceeded to carry out the painting and maintenance.

During the hearing, the landlord offered to work with the tenant and even agreed to allow the tenancy to continue if the tenant paid up what he thought he owed in rent which is \$400.00, instead of what the landlord was claiming which is \$723.00. The landlord provided a breakdown of the rent owed (\$723.00) which included the rent increase that came into effect on July 01, 2017.

The tenant refused to agree to pay the outstanding rent. The tenant stated that he was owed money for the work he had carried out in the rental unit and informed the landlord that he would be filing another application for dispute resolution to claim reimbursement for the costs he incurred. The tenant hung up prior to the end of the hearing.

Analysis:

The tenant had testified that he owed rent as of the date of this hearing in the amount of \$400.00. Based on the sworn testimony of the both parties, I find that the tenant received the notice to end tenancy for unpaid rent, on July 06, 2017 and did not pay rent within five days of receiving the notice to end tenancy, pursuant to Section 46 to set aside the notice to end a residential tenancy, and the time to do so has expired. . Accordingly, I uphold the notice to end tenancy.

Section 55 of the *Residential Tenancy Act* addresses an order of possession for the landlord and states:

Order of possession for the landlord

- 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 find that the landlord served the tenant with a notice to end tenancy that complies with section 52 (form and content of notice to end tenancy).

Since the tenant did not pay rent within the legislated time frame of 5 days, I have dismissed the tenant's application for dispute resolution and have upheld the notice to end tenancy.

Under the provisions of section 55, I must issue an order of possession when I have upheld a notice to end tenancy. Accordingly, I so order. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Since the tenancy is ending the tenant's application for a rent reduction is moot and accordingly dismissed.

Conclusion

The notice to end tenancy is upheld and I grant the landlord an order of possession effective two days after service on the tenant.

The landlord is at liberty to file his own application for a monetary order for unpaid rent.

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: August 25, 2017

Residential Tenancy Branch