



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding JENNIFER ANDERSON
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, CNR

Introduction

This matter dealt with an application by the Tenants to cancel a Notice to End Tenancy for unpaid rent and a Notice to End Tenancy for Cause. .

The Tenant said he served the Landlord with the Application and Notice of Hearing (the “hearing package”) by personal delivery on or about May 7, 2018. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenants’ hearing package as required by s. 89 of the Act and the hearing proceeded with both parties in attendance.

Issues(s) to be Decided

1. Are the Tenants entitled to an order to cancel the Notices to End Tenancy?

Background and Evidence

This tenancy started on December 15, 2018 as a 2 year fixed term tenancy. Rent is \$1,800.00 per month payable in advance of the 1st day of each month. The Tenants paid a security deposit of \$900.00 prior to the start of the tenancy. .

The Landlord said she served the Tenants with a 10 Day Notice to End Tenancy for Unpaid Rent and Utilities dated June 6, 2018. She served the Notice on June 6, 2018 by posting it on the door of the Tenants rental unit. The Effective Vacancy date on the Notice is June 16, 2018. The Tenants are living in the unit and the Landlord requested an Order of Possession if the Tenant’s application is unsuccessful.

The Tenant said he agrees that there is \$1,685.00 of unpaid rent and the Tenants are willing to move out in 2 days.

The parties were in agreed that the tenancy would end in a couple of days and the Tenants would pay the unpaid rent by agreeing to let the Landlord use their security deposit as a partial rent payment and they would pay the balance.

The Landlord agreed to this and said if they can mutually agree to the outstanding issues the Landlord would cancel her application to be heard in August, 2018.

Analysis

Section 26(1) says 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.

The Tenants do not have the right to withhold all or a portion of the rent from the Landlord when it is due therefore; I find the Tenant has not established grounds to be granted an order to cancel the Notices to End Tenancy. The Landlord's 10 Day Notice to End Tenancy dated June 6, 2018 stands in effect. Consequently, I find pursuant to s. 55(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect 2 days after service of the Order on the Tenants.

Conclusion

The Tenants' application to cancel the Notices to End Tenancy is dismissed without leave to reapply.

An Order of Possession effective 2 days after service on the Tenants has been issued to the Landlord. A copy of the Order must be served on the Tenants in accordance with the Act: the Order of Possession and may be enforced in the Supreme Court of British Columbia.

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 27, 2018

Residential Tenancy Branch