



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC, FF

Introduction

This hearing dealt with an application by the tenant for an order to set aside a notice to end tenancy for cause. The tenant also applied for the recovery of the filing fee. Both parties attended this hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. Both parties represented themselves.

As both parties were in attendance I confirmed service of documents. The parties confirmed receipt of each other's evidence. I find that the parties were served with evidentiary materials in accordance with sections 88 and 89 of the *Act*.

Issue to be Decided

Does the landlord have grounds to end this tenancy? Is the tenant entitled to the recovery of the filing fee?

Background and Evidence

The tenancy began in November 2016. The current rent is \$1,658.00 due on the first of the month.

The tenant agreed that on April 30, 2018, the landlord served the tenant with a notice to end tenancy for cause. Neither party filed a copy of the notice into evidence. The effective date of the notice is May 31, 2018. The tenant disputed the notice in a timely manner. One of the reasons for the service of the notice to end tenancy was:

- Tenant is repeatedly late paying rent

The landlord stated that the tenant is consistently late paying rent and filed a copy of a bank print out to support his testimony. The tenant did not dispute the landlord's testimony and agreed that she had provided late rent for the months that the landlord testified to. The evidence filed by the landlord indicates that the tenant had paid rent late at least eight times during the period of February 2017 to March 2018.

Analysis

In order to support the notice to end tenancy, the landlord must prove that one or more of the reasons for the notice to end tenancy applies. Based on the testimony of both parties, I find that the tenant was late paying rent on at least three separate occasions.

Pursuant to section 38 of the *Residential Tenancy Policy Guideline*, three late payments are the minimum number sufficient to justify a notice under these provisions. Since February 2017, the tenant was late paying rent at least eight times. Therefore, I find that the landlord has proven the reason to end the tenancy for cause and 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:

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 landlord has proven the reason for the notice to end tenancy, 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. 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 tenant has not proven her case, she must bear the cost of filing this application.

Conclusion

The notice to end tenancy is upheld and I grant the landlord an order of possession effective by **1:00 pm on August 01, 2018.**

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 22, 2018

Residential Tenancy Branch