



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNR, FF

Introduction:

The Application for Dispute Resolution filed by the Tenants seeks an order to cancel the 10 day Notice to End Tenancy which is undated but sets the end of tenancy for July 25, 2018 and a second 10 day Notice to End Tenancy dated July 24, 2018

A hearing was conducted by conference call in the presence of both parties. 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 first 10 day Notice to End Tenancy was served on the Tenants by mailing, by registered mail to where the Tenants reside on July 13, 2018. The tenants failed to claim that package. I find that the second 10 day Notice to End Tenancy was served on the Tenants by posting on July 24, 2018. Further I find that the Application for Dispute Resolution/Notice of Hearing filed by the Tenants was personally served on the landlord on July 27, 2018. With respect to each of the applicant's claims I find as follows:

Issues to be Decided:

The issue to be decided is whether the tenants are entitled to an order cancelling the 10 day Notice to End Tenancy which is undated but sets the end of tenancy for July 25, 2018 and the 10 day Notice to End Tenancy dated July 24, 2018?

Background and Evidence:

The tenancy began on November 1, 2013. The tenancy agreement provided that the tenant(s) would pay rent of \$1700 per month payable in advance on the first day of each month. The tenant(s) paid a security deposit of \$850 at the start of the tenancy.

The landlord testified that at the time the 10 day Notices to End Tenancy were served on the tenants they owed 4 months in outstanding rent or the sum of \$6800. They have paid part of the arrears. They presently owe \$3400 being the rent for August 2018 and September 2018.

The tenants testified they have faced temporary hard times recently. They acknowledged that they owe the 2 months rent and testified they are trying to pay it.

The tenants testified they would be able to pay the arrears in full with a payment of \$1700 today and a second payment of \$1700 on September 24, 2018.

Analysis:

The Residential Tenancy Act no longer provides the arbitrator with the authority to grant an extension of time to pay the rent unless the landlord agrees. The landlord(s) stated that they are not prepared to grant an extension of time to pay the rent and they wished to regain possession of the rental unit. However, they further stated they were prepared to give the Tenants until October 31, 2018 to vacate the rental unit.

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 two 10 day Notices to End Tenancy. The tenancy shall come to an end.

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 of Possession. With the consent of the landlord I set the effective date of the Order of Possession for 6:00 p.m. on October 31, 2018.

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: September 17, 2018

Residential Tenancy Branch