



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding DELANEY PROPERTIES LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR

Introduction

On July 9, 2018, the Tenant submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) requesting to cancel a 10-Day Notice to End Tenancy for Unpaid Rent. The matter was set for a participatory hearing via conference call.

The Landlord attended the conference call hearing; however, the Tenant did not attend at any time during the 19-minute hearing. The Tenant was emailed a copy of the Notice of a Dispute Resolution Hearing by the Residential Tenancy Branch on July 12, 2018 and subsequently, served the Notice of Hearing to the Landlord. I find that the Tenant was fully aware of the Notice of Hearing and the date and time of this hearing; therefore, the the Landlord was provided the opportunity to present her affirmed testimony and documentary evidence at the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue to be Decided

Should the 10-Day Notice to End Tenancy for Unpaid Rent, dated July 4, 2018, (the “Notice”), be cancelled pursuant to Section 46 of the Act?

Background and Evidence

The Landlord provided the following affirmed and undisputed evidence:

The six-month, fixed term tenancy began on September 1, 2017 and continued on as a month-to-month tenancy. The monthly rent, that is due on the first of each month, is \$675.00. The Landlord collected and still holds a \$337.50 security deposit.

In May 2018, the Tenant approached the Landlord, in response to receiving a Two-Month Notice to End Tenancy for Landlord's Use, to negotiate a mutually agreed upon date to move out of the rental unit. On May 25, 2018, the Landlord and the Tenant signed an agreement that stated that the owner would reimburse the Tenant with the May rent if the Tenant agreed to vacate the rental unit on or before June 30, 2018. The Landlord stated that the parties agreed that the Landlord would reimburse the Tenant for two months of rent for his agreement to move out of the rental unit. As the Tenant's cheques are automatically deposited to the Landlord, the Landlord issued two reimbursement cheques to the Tenant, one for May 2018 rent and the other for June 2018 rent. The cheques were submitted as evidence.

The Landlord stated that the Tenant failed to move out of the rental unit on June 30, 2018, and because the Tenant failed to pay the rent on July 1, 2018, the Landlord issued the Notice on July 4, 2018 by serving it personally to the Tenant. In the Notice, it stated that the Tenant was in arrears for \$2,025.00 (rent for May, June and July 2018) and could either pay the amount, dispute the Notice or move out of the rental unit by July 17, 2018. The Landlord stated that the Tenant paid his July rent; however, was still in arrears for \$1,350.00 (rent for May and June 2018).

The Tenant disputed the Notice, and has paid his August 2018 rent. The Landlord is requesting an Order of Possession for the rental unit, as the Tenant has not repaid his May and June 2018 rent of \$1,350.00 and is still living in the rental unit.

Analysis

I accept the undisputed testimony of the Landlord that the Landlord and the Tenant had an agreement where the Tenant would move out of the rental unit by June 30, 2018, if the Landlord reimbursed the Tenant for two months of rent. The Landlord reimbursed the Tenant two for months of rent, for a total of \$1,350.00; however, the Tenant failed to move out of the rental unit as agreed, by June 30, 2018.

After the Tenant failed to move from the rental unit, the Landlord notified the Tenant, via the Notice issued on July 4, 2018, that the Tenant now owed the rent for May and June 2018. The Tenant disputed the Notice; however, did not attend this hearing to provide testimony or evidence as to why they should not pay rent or furthermore, that the Notice

should be canceled. As I do not have any evidence before me that the Tenant had a right under this Act to deduct any of their rent, I find that the Tenant has failed to pay his rent, pursuant to Section 26 of the Act.

I accept the Landlord's evidence that the Notice was issued to the Tenant in person, on July 4, 2018 and find that the Notice complied with Section 52 of the Act.

As a result of my above findings and because the Tenant has not paid rent for May or June 2018 and is still living in the rental unit, I dismiss the Tenant's Application to cancel the Notice. I issue the Landlord an Order of Possession for the rental unit, in accordance with Section 55 of the Act.

Conclusion

I am granting the Landlord an Order of Possession to be effective two days after notice is served on the Tenant. Should the Tenant fail to comply with this Order, this Order may be filed and enforced as an Order of 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: September 04, 2018

Residential Tenancy Branch