



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Mole Hill Community Housing
Society and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, MT

Introduction

This decision is in respect of the tenant's application for dispute resolution under the *Residential Tenancy Act* (the "Act"). The tenant seeks the following remedies: (1) an order cancelling a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"); and, (2) more time to dispute a notice after the deadline for disputing the notice has passed.

A dispute resolution hearing was convened on January 24, 2019 and the landlord's agent, an employee of the landlord, the tenant, and the tenant's legal advocate attended. The parties were given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses. There were no issues of service raised by the parties.

While I have reviewed all oral and documentary evidence submitted that met the requirements of the *Rules of Procedure* and to which I was referred, only evidence relevant to the issues of this application are considered in my decision.

I note that section 55 of the Act requires that when a tenant applies for dispute resolution seeking to cancel a notice to end tenancy issued by a landlord, I must consider if the landlord is entitled to an order of possession if the application is dismissed and the landlord's notice to end tenancy complies with the Act.

Issues to be Decided

1. Is the tenant entitled to more time to dispute the Notice?
2. If yes, is the tenant entitled to an order cancelling the Notice?
3. If not, is the landlord entitled to an order of possession of the rental unit?

Background and Evidence

The landlord's agent and an employee of the landlord were present when the hearing commenced at 11:00 A.M. on January 24, 2019. After approximately six minutes into the hearing, the tenant and her newly-retained legal advocate dialled in to the hearing.

The advocate stated that she had only very recently been retained by the tenant, and that the tenant was not disputing the Notice (a copy of which was submitted into evidence). Rather, the tenant simply sought more time to be able to vacate the rental unit. The tenant requested that any order of possession issued be effective January 31, 2019, allowing her some time to find a new place and move out. She further did not dispute that she has not paid rent.

The landlord's agent agreed to an order of possession with an effective time and date of 1:00 P.M. on Thursday, January 31, 2019. The landlord's agent also sought a monetary order for unpaid rent in the amount of \$3,232.00. However, I explained to him that as this was the tenant's application, I was without jurisdiction to issue a monetary unless the tenant or her advocate agreed to an amendment of the application; the legal advocate stated that she did not have all the paperwork on this application. As such, I further explained to the landlord's agent that the landlord would remain at liberty to file its own application in pursuit of the arrears.

The landlord's agent confirmed that the tenancy commenced on April 1, 2018, that monthly rent was \$448.00, that there was a monthly utility charge of \$25.00, and that there is a security deposit of \$379.00. A copy of the ledger showing unpaid rent, and a copy of the written tenancy agreement were submitted into evidence by the landlord.

As noted during the hearing, the landlord is at liberty to apply to retain the security deposit in partial satisfaction of any monetary claim that it is entitled to in respect of unpaid rent.

Analysis

In respect of the request for more time to file a dispute, as the tenant does not contest the validity of the Notice, I make no finding as to this aspect of the claim, as it is moot.

Section 26 of the Act requires that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with the Act, regulations or the tenancy agreement, unless the tenant has a right under the Act to deduct all or some of

the rent. Pursuant to section 46 of the Act, the Notice informed the tenant that the Notice would be cancelled if they paid rent within five days of service. The Notice also explains that the tenant had five days from the date of service to dispute the Notice by filing an Application for Dispute Resolution.

The tenant's legal advocate did not dispute the landlord's Notice and that the tenant has not paid rent. Rather, they only sought to let the tenant remain in the rental unit until the end of the month to find a new place to live. The landlord was not opposed to this.

Conclusion

I hereby grant the landlord an order of possession, which must be served on the tenant and is effective at 1:00 P.M. on January 31, 2019, and only after it is served on the tenant no later than January 28, 2019. This order may be filed in, 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 Act.

Dated: January 24, 2019

Residential Tenancy Branch