



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 and 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. The 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 on April 01, 2018. The current rent is \$1,275.00 due on the first of the month. On February 21, 2019, the landlord served the tenant with a notice to end tenancy for cause. The tenant disputed the notice in a timely manner. The notice to end tenancy was served for the following reason:

- Tenant is repeatedly late paying rent

The tenant stated that she had run into hard times and agreed that she had paid rent late on November 11, 2018, January 15, 2019 and February 15, 2019.

Analysis

In order to support the notice to end tenancy, the landlord must prove that the reason 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 November 01, 2018, the tenant was late paying rent at three 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.

The landlord agreed to allow the tenancy to continue until June 01, 2019, to provide the tenant with extra time to find alternative accommodation.

Conclusion

The notice to end tenancy is upheld and I grant the landlord an order of possession effective at 1:00 pm on June 01, 2019.

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: April 12, 2019

Residential Tenancy Branch