



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, CNC, RR, RP, MNDC, FF

Introduction

This hearing was convened in response to an application made January 20, 2020 and amendments made February 3 and March 4, 2020 by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order cancelling notices to end tenancy - Section 46 and 47;
2. An Order for a rent reduction - Section 65;
3. An Order for repairs - Section 32;
4. A Monetary Order for compensation - Section 67; and
5. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions. The Landlord confirms that the Landlord’s email address as set out in the Tenant’s application is correct.

Issue(s) to be Decided

Is the notice to end tenancy for unpaid rent valid?

Is the Landlord entitled to an order of possession?

Background and Evidence

The following are agreed facts: There is no written tenancy agreement. The tenancy started on September 1, 2019. At the outset of the tenancy the Landlord collected \$350.00 as a security deposit. Rent of \$700.00 is payable on the first day of each

month. On January 15, 2020 the Landlord served the Tenant in person with a 10 day notice to end tenancy for unpaid rent (the "Notice"). The Notice is on the Residential Tenancy Branch form, is signed by the Landlord, is dated January 15, 2020, sets out the rental unit address, and sets out an effective date of January 26, 2020. The Notice sets out that rent of \$700.00 due January 1, 2020 is unpaid. No rents have been paid to the Landlord since the receipt of the Notice. The Tenant is not physically in the unit however belongings have not been removed from the unit.

The Parties did not dispute that the Tenant was subsequently given additional notices to end tenancy for unpaid rent and a notice to end tenancy for cause and these were all disputed by the Tenant in this application.

The Tenant states that prior to the Notice being served the Landlord was offered \$600.00 for January 2020 rent but the Landlord refused. The Landlord states that sometime before January 20, 2020 the Tenant did offer to pay \$600.00 however the Landlord refused to take this rent as the Landlord thought it might be seen as the Landlord's agreement to a rent reduction.

Analysis

Section 26 of the Act provides that a tenant must pay the rent when and as provided under the tenancy agreement whether or not the landlord complies with this Act, the regulations or the tenancy agreement. Section 46(1) of the Act provides that a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice. Section 55(1) provides that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, an order of possession must be granted to the landlord if, the notice to end tenancy complies in form and content and the tenant's application is dismissed or the landlord's notice is upheld. Section 52 of the Act provides that in order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and
- (e) when given by a landlord, be in the approved form.

Given the Landlord's vague evidence of the offer for January 2020 rent, I accept the Tenant's evidence that a portion of the rent offered for January 2020 was not accepted by the Landlord. However, that there is no evidence that after receipt of the Notice the Tenant paid the outstanding rent indicated in the Notice. The Tenant's evidence of breaches by the Landlord do not give rise to any right of the Tenant to not pay rent. As there is no evidence that the rent was paid as required, I find that the Notice is valid and the Tenant's claim to cancel the Notice is dismissed. The tenancy ends. Considering that the required form and content is contained on the Notice and given the validity of the Notice I find that the Landlord is entitled to an order of possession.

As the tenancy has ended and as the claims for repairs, a rent reduction and the cancellation of the remaining notices to end tenancy are no longer relevant I dismiss these claims. As the Tenant's claim to cancel the Notice was not successful, I dismiss the Tenant's claim for recovery of the filing fee.

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure provides that claims made in an application must be related to each other and unrelated claims may be dismissed with or without leave to reapply. As the monetary claim is not related to the matter of whether the tenancy will end, I dismiss this claim with leave to reapply.

Conclusion

The Notice is valid, and the tenancy is ended.

I grant an Order of Possession to the Landlord. The Tenant must be served with this **Order of Possession**. 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.

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: March 25, 2020

Residential Tenancy Branch