



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: OPC, MNR, FF

Introduction

This hearing dealt with the landlord's application for an order of possession, a monetary order as compensation for unpaid utilities, and recovery of the filing fee for this application. The landlord and her agent attended the hearing and gave affirmed testimony. The landlord's agent stated that the tenant was served in person with the application for dispute resolution and notice of hearing on May 27, 2009. However, despite this, the tenant did not appear.

Issues to be decided

- Whether the landlord is entitled to an order of possession
- Whether the landlord is entitled to a monetary order under the Act

Background and Evidence

A previous hearing was scheduled for these same parties on May 4, 2009. However, as neither party attended, the matter was dismissed with leave to reapply.

The landlord's fluency in English is limited. In the result, the landlord's testimony during the hearing was provided by way of her agent. The documentary evidence before me is limited to a copy of the landlord's application for dispute resolution and the notice of dispute resolution hearing, in addition to five (5) photographs of seemingly discarded possessions and possibly some refuse, which is stacked outside.

There is no formal residential tenancy agreement in place for this month-to-month tenancy. It is not clear what amount of rent is due each month and what particular utilities, if any, may be included in the rent. According to the landlord's agent, the

landlord seeks an order of possession on the basis of cause, and on the basis of unpaid rent and utilities.

The landlord's agent states that the landlord served the tenant with a 1 month notice to end tenancy for cause on May 27, 2009. However, no copy of the notice was before me and information in support of cause which was included in the landlord's application was extremely limited, as follows:

Smoking in the house. Damage the landlord's property. Making mess. Many people coming. Too loud.

It is understood that the tenant has not presently been served with a 10 day notice to end tenancy for unpaid rent and utilities. It is not clear what amount of rent and utilities may be outstanding or to what periods of time these overdue amounts may apply.

Analysis

Section 46 of the Act speaks to **Landlord's notice: non-payment of rent**. Section 47 of the Act addresses **Landlord's notice: cause**. The full text of the legislation, Fact Sheets, forms and more can be accessed via the website: www.rto.bc.gov.ca/

In summary, there is simply insufficient evidence before me to conclude that the landlord has established cause to end the tenancy. Additionally, even while the landlord claims that the tenant is in arrears with rent and utilities, not only are the allegedly overdue amounts unknown, there is no evidence that the tenant has been served with a 10 day notice to end tenancy for unpaid rent and utilities.

The landlord is free to inform herself about the dispute resolution process, how to prepare for a hearing, how to serve documents etc. by way of the website, as above, and by way of discussion with a residential tenancy branch information officer.

Conclusion

In the meantime, pursuant to all of the above, I hereby dismiss the application with leave to reapply.

DATE: July 8, 2009

DISPUTE RESOLUTION OFFICER

Dispute Resolution Officer