



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

CNR

Introduction

Both parties were present at the hearing. At the start of the hearing I introduced myself, the Application for Dispute Resolution was reviewed, the hearing process was explained to the parties and the parties were provided an opportunity to ask questions in relation to the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral evidence, to cross-examine the other party, and to make submissions to me.

Preliminary Matter

At the start of the hearing I determined that the landlord had not received the tenant's two page evidence submission. During the hearing the tenant was able to provide oral testimony in relation to this evidence.

Issue(s) to be Decided

Should the 1- Day Notice to End Tenancy for Unpaid Rent issued on August 5, 2009 be cancelled?

Background and Evidence

The landlord and the tenant agree the tenants are required to pay monthly rent in the amount of \$1,100.00 on the first day of the month. This tenancy commenced in May 2009.

The parties agreed that on August 5, 2009 the tenant received a 10 Day Notice to End Tenancy for unpaid July and August rent in the sum of \$2,200.00. The Notice indicated that the Notice would be automatically cancelled if the landlord received \$2,200.00 within five days after the tenant is assumed to have received the Notice. The Notice also indicated that the tenants are presumed to have accepted that the tenancy is

ending and that the tenants must move out of the rental by the date set out in the Notice unless the tenants file an Application for Dispute Resolution within five days.

The tenants filed an Application for Dispute Resolution seeking to dispute the Notice on August 6, 2009. The tenant testified that she paid her July rent by cash on July 1, 2009 by placing the rent money, less \$100.00, in the landlord's locked mail box. The tenant stated that on July 9 the landlord accused her of not paying this rent. The tenant stated she had been away, but had attempted to locate the landlord on July 1 and, failing to find her, had left the cash in the locked mail box. The tenant testified that she also paid August and September rent in cash to the landlord and the landlord has not supplied her with a receipt for those payments, or the rent payments made for May and June.

The landlord testified that the tenant did pay rent for May and June and that the payment in June was made on the 7th. The landlord stated that she was not overly concerned about the late payment. The landlord stated that she checks her mail every day and that she did not find any cash in her mail box. The landlord stated that she has not received August or September rent and that the tenant had previously paid her personally, not by leaving cash in the mail box.

Analysis

The tenant testified that, despite her belief that the landlord had received the rent money left in the mail box for July's rent; she again paid cash in August and September and did not receive a receipt.

I find that the tenant has failed to pay rent in July and accept the landlord's testimony that the tenant has also not paid rent for August and September, 2009. The tenant could not provide any reason as to why she would make further cash rent payments, without receiving a receipt, after the landlord had denied receipt of the July rent payment.

I have accepted, on the balance of probabilities, the landlord's testimony that she did receive May and June rent but has not been paid any rent since that time. I base this on the absence of any evidence from the tenant that she made those subsequent payments for July, August and September. I have not accepted the tenant's testimony that the landlord refused to supply a receipt and find that the tenant had other options available to her to ensure there was a record or a witness to these payments, particularly for August and September. Section 46(1) of the Act stipulates, in part, that a landlord may end a tenancy if the tenant fails to pay rent that is due.



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Conclusion

After considering all of the evidence and testimony provided at this hearing, I find that the landlord has the right to end this tenancy, as the tenant did not pay rent for July, August and September, 2009; and I dismiss the tenant's application to set aside the Notice to End Tenancy issued on August 5, 2009.

The landlord did not request an Order of possession during the hearing but is at liberty to make Application for Dispute Resolution.

A copy of the Guide for Landlord's and Tenants in British Columbia is enclosed for the landlord; the tenant stated that she does not require a copy.

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 21, 2009.

Dispute Resolution Officer