



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

This hearing dealt with an application by the tenant for an order setting aside a notice to end this tenancy. Both parties participated in the conference call hearing.

At the hearing, the tenant advised that she had filed her application through a Service BC office and that they had photocopied her original application in which she had merely requested that a notice to end tenancy be set aside and had failed to copy and submit her amended application in which she made some kind of claim related to health issues. As the landlord only had notice of the claim to set aside a notice to end tenancy, the hearing dealt exclusively with that issue. The tenant is free to file another application to address other issues.

Issue to be Decided

Should the notice to end tenancy be set aside?

Background and Evidence

The parties agreed that in mid-December, the tenant was served with a notice to end tenancy for unpaid rent. The tenant acknowledged that she had not paid rent in November and December, but claimed that she did not do so because the landlord had failed to perform repairs which she had brought to his attention at the outset of the tenancy. The landlord denied having received a request for repairs.

Analysis

The tenant submitted with her application the first page of a notice to end tenancy. The notice is one which was made available through the Residential Tenancy Branch in 2003. The *Residential Tenancy Act* was substantially revised in 2004 and the forms prescribed by the Director were also revised at that time to reflect the legislative changes.

Section 52(e) of the Act provides that to be effective to end a tenancy, a notice given by the landlord must be in the approved form. I find that the notice in this case is not in the currently approved form and therefore cannot be effective to end the tenancy. For that reason, I order that the notice be set aside and of no force or effect. As a result, the tenancy will continue.

At the hearing, the landlord stated that now that he was aware of a complaint about mould in the rental unit, he wished to inspect the unit. The tenant told the landlord that she would grant him access at 7:00 p.m. on this date for the purpose of inspecting the unit.

Conclusion

The notice is set aside.

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: January 23, 2013

Residential Tenancy Branch

