



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding G.S. Kang & Sons Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This is an application filed by the Tenant to obtain an order to cancel a notice to end tenancy issued for cause.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended and have confirmed receipt of the notice of hearing package and the submitted documentary evidence, I am satisfied that both parties have been properly served.

At the beginning of the hearing the Landlord state that the Tenant was still occupying the rental unit and that the Landlord is seeking an order of possession to end the tenancy.

Both parties have failed to submit a complete copy of the 1 month notice to end tenancy issued for cause, but have agreed in their direct testimony that a 1 month notice to end tenancy issued for cause dated November 2, 2013 was served upon the Tenant by posting it to the rental unit door on the same date. Both parties agreed that the notice displays an effective end of tenancy date of December 2, 2013 and that only one reason for cause was selected as "Tenant is repeatedly late paying rent."

Issue(s) to be Decided

Is the Tenant entitled to an order cancelling the notice to end tenancy?

Is the Landlord entitled to an order of possession?

Background and Evidence

The Tenant states that he was served with a 1 month notice to end tenancy issued for cause dated November 2, 2013 issued for "Tenant is repeatedly late paying rent". The Tenant stated in his written details, "Tenant of 9 years has been late 4 times in 2013 by 1 day twice and by 2 days twice." The Tenant states that he "feels eviction is severe and would be happy to provide a series of post-dated cheques or enter a pre-authorized payment arrangement through the bank to remedy this dispute." The Tenant disputes in his direct testimony that he obtained verbal permission from the Landlord to pay the rent regularly late. The Landlord's Agent, disputes this stating that there is no record of any permission given to the Tenant for late rent payments. The Landlord states that this is supported by the numerous 10 day notices to end tenancy issued for unpaid rent that were served upon the Tenant. The Tenant states that they were told numerous times that as long as they pay the rent that the Landlord would not seek an eviction. The Landlord's Agent clarified that the Landlord would not seek an eviction based upon those 10 day notices, but that repeatedly late rent payments are different.

Analysis

Residential Tenancy Branch Policy Guideline #38 states,

The *Residential Tenancy Act*¹ and the *Manufactured Home Park Tenancy Act*² both provide that **a landlord may end a tenancy where the tenant is repeatedly late paying rent.**

Three late payments are the minimum number sufficient to justify a notice under these provisions.

It is clear based upon the Tenant's own evidence that the minimum number sufficient to justify a notice under "repeatedly late rent" has been established. The Tenant has failed to provide any evidence to support his claim that permission was granted to repeatedly pay rent late. The Tenant's Application is dismissed.

The Landlord is entitled to an order of possession. This order must be served upon the Tenants. Should the Tenants 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.

During the hearing, the Landlord's Agent verbally requested that the effective date of the order be January 15, 2014 at 1:00 pm as opposed to the normal 2 days upon service.

Conclusion

The Tenant's Application is dismissed.
The Landlord is granted an order of possession.

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: December 18, 2013

Residential Tenancy Branch

