



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR MNDC OLC LAT OPR MNR MNSD MNDC FF

Introduction

This hearing convened pursuant to applications by the tenant and the landlord. The tenant applied to cancel a notice to end tenancy, as well as for monetary compensation, and order that the landlord comply with the Act and an order allowing the tenant to change the locks. The landlord applied for an order of possession, a monetary order and an order to retain the security deposit in partial compensation of the claim. The tenant and the landlord participated in the teleconference hearing.

I informed the parties at the outset of the hearing that the issue of the notice to end tenancy took precedence, and only heard evidence on that issue. I will address the remainder of the applications in the conclusion of my decision.

Preliminary Issues

At the outset of the hearing, each party confirmed that they had received the other party's application and evidence. The tenant stated that he had not submitted his evidence because he was told he was out of time. The tenant did not request an adjournment. Both parties were given full opportunity to give testimony regarding the notice to end tenancy. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

In the hearing the tenant stated that the person on the phone who claimed to be the landlord was not in fact the landlord and owner, but was an agent of the landlord. The landlord stated that this was a lie and he was the landlord, who is named as the applicant in the landlord's application and as the respondent in the tenant's application. The tenant did not raise this as a preliminary issue, and I found no reason to disbelieve the landlord. Regardless of whether the person appearing in the hearing was the landlord or the landlord's agent, the tenant agreed that he entered into a tenancy

agreement with the landlord named on the applications and the issue at hand was whether or not the tenant paid rent, not whether he paid it to the landlord or an agent of the landlord. I therefore proceeded with the parties in the hearing.

Issue(s) to be Decided

Is the landlord entitled to an order of possession pursuant to the notice to end tenancy dated January 8, 2014?

Background and Evidence

The tenancy began on December 1, 2013 with monthly rent in the amount of \$1250. On January 8, 2014 the landlord served the tenant with a notice to end tenancy for unpaid rent of \$1250 due on January 1, 2014. The landlord stated that he did not receive any rent from the tenant for January 2014; nor did the tenant pay any rent for February or March 2014.

I asked the tenant why he did not pay the rent, and he stated that he didn't pay the rent because "this man is not the landlord." The tenant then stated that he paid January 2014 rent in two installments, \$1000 in cash on January 1, 2014 and \$250 in cash probably on January 2, 2014. The tenant stated that he had receipts for these payments, but he was unable to submit them in time for the hearing. The tenant later stated that he did not pay on January 1st, it was a week late.

Analysis

Upon consideration of the evidence, I find that the notice to end tenancy for unpaid rent dated January 8, 2014 is valid. The tenant's testimony was unclear and contradictory, and he did not provide sufficient evidence to establish that he did pay the rent. I therefore grant the landlord an order of possession.

As the landlord's application for an order of possession was successful, I find he is entitled to recovery of the \$50 filing fee for the cost of his application.

As the tenant's application to cancel the notice was not successful, I find he is not entitled to recovery of his filing fee.

Conclusion

I grant the landlord an order of possession effective two days from service. The tenant must be served with the 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.

I further grant the landlord a monetary order for \$50, representing his filing fee. This order may be filed in the Small Claims Court and enforced as an order of that Court.

As the tenancy is ending, I dismiss the portions of the tenant's application regarding an order that the landlord comply with the Act and an order allowing the tenant to change the locks.

The monetary portion of the tenant's application and the remainder of the landlord's application are dismissed with leave to reapply.

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: March 4, 2014

Residential Tenancy Branch

