



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Econo Fibre Co. Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, O, OPR, MNR, MNSD

Introduction

This hearing dealt with an application by the tenant for an order setting aside a notice to end this tenancy and a cross-application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Both parties participated in the conference call hearing.

At the hearing, I allowed the landlord to amend the claim to include a claim for rent for the month of March.

Issues to be Decided

Should the notice to end tenancy be set aside?
Is the landlord entitled to an order of possession?
Is the landlord entitled to a monetary order as claimed?

Background and Evidence

Most of the facts are not in dispute. The tenancy began in 2011. The tenancy agreement named the landlord as “B.T. c/o [corporate landlord’s name].” The tenants are obligated to pay \$2,800.00 in rent each month. The male tenant is a realtor and in 2013, entered into an agreement with the landlord to list the rental unit for sale. The tenant was unable to complete a sale of the property, in part because he was unable to communicate directly with B.T., who is the registered owner of the property, and his demand for a notarized copy of B.T.’s passport and contact information was denied.

The tenants had a suspicion that the corporate landlord did not have authorization to act as an agent for B.T. and in December 2013, they stopped paying rent. On February 4, the landlord served the tenants with a 10 day notice to end tenancy for unpaid rent (the “Notice”). On February 27, the landlord provided the tenant with a copy of a notarized

statement from B.T. in which he acknowledged the corporate landlord's authority to act as an agent. The statement also contained B.T.'s citizenship card number.

The male tenant argued that the notarized statement was worthless as "you can get anything notarized in Hong Kong" and said that the only way he would be satisfied that he was actually dealing with the owner was if he received a notarized copy of a current passport. The tenant indicated that he believes that B.T. may be deceased, although he had no evidence to corroborate that theory. The corporate landlord's agent testified that B.T. does not want the tenant to have access to his personal information.

The parties agreed that the tenants have not paid rent for December 2013 – March 2014 inclusive.

Analysis

The tenants entered into a tenancy agreement with the corporate landlord in 2011 and at no time have they been contacted by B.T. advising that they are not entitled to reside in the rental property. While I appreciate that the tenants desire to know more about B.T. and find the circumstances suspicious, they have not provided me with evidence that is sufficient to persuade me that the corporate landlord is not entitled to act as an agent for B.T.

I have no reason to believe that the notarized statement provided by the corporate landlord is not authentic and that coupled with the fact that neither B.T. nor an administrator or executor of his estate has contacted the tenants to question their right to live in the unit leads me to the conclusion that it is more likely than not that the corporate landlord has the right to act as B.T.'s agent.

For these reasons, I find that the tenants did not have a legal reason to withhold rent and I decline to set aside the Notice. The tenants' claim is dismissed. I grant the landlord an order of possession which must be served on the tenants and is enforceable through the Supreme Court.

I find that the landlord is entitled to recover the unpaid rent for December – March inclusive and I further find that the landlords are entitled to recover the \$100.00 filing fee paid to bring this application. I award the landlords \$11,300.00 and I grant them a monetary order under section 67 for that sum. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The tenants' claim is dismissed. The landlord is granted an order of possession and a monetary order for \$11,300.00.

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 27, 2014

Residential Tenancy Branch

