

DECISION

Dispute Codes CNL, OLC, FF, O

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenants to cancel a Two Month Notice to End Tenancy. The tenants also seek an Order for the landlord to comply with the *Residential Tenancy Act (Act)*, regulation or tenancy agreement and a Monetary Order to recover the filing fee.

The tenant served the landlord by registered mail on June 02, 2010 with a copy of the Application and Notice of Hearing. I find that the landlord was properly served pursuant to s. 89 of the *Act* with notice of this hearing.

Both parties appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in written form, documentary form and make submissions to me. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

Preliminary Issues

At the outset of the hearing the tenant attending states that he does not seek to cancel the Two Month Notice to End Tenancy but does dispute the effective date of the Notice.

Issues(s) to be Decided

- Is the effective date of the Notice invalid?
- Is the tenant entitled to an Order for the landlord to comply with the *Act*?

Background and Evidence

This month to month tenancy started on December 01, 2007. Rent for this unit is \$810.00 per month and is due on the first of each month. The tenants paid a security deposit of \$375.00 on or about December 01, 2007.

The tenant attending testifies that the landlord served them with a Two Month Notice to End Tenancy by slipping the Notice under the door of their rental unit. The reason given on this Notice is that the rental unit will be occupied by the landlord or the landlords spouse or a close family member of the landlord or the landlords' spouse. The effective date given on the Notice is July 31, 2010. The tenant questions this date as the landlord did not serve the notice in accordance with the Act.

The tenant states they do not seek to cancel the Notice and they intend to vacate the rental unit by August 31, 2010. The tenant states he has no other issues

The landlord states he has no issues with amending the effective date of the Notice to August 31, 2010.

Analysis

Section 88(g) of the Act states: a landlord may serve a Notice by attaching a copy to the tenants' door or other conspicuous place at the address at which the person resides. I find the landlord served this Notice by sliding it under the tenant's door rather than attaching it to the tenant's door. However, as the tenants have acknowledged receipt of the Notice I deem it to have been sufficiently served for the purposes of this Act pursuant to section 71(2)(c) of the *Act*.

I further find the Notice was not deemed to have been served until June 03, 2010, three days after putting it under the tenants' door pursuant to section 90(c) of the *Act*. Therefore, I find the effective date of the Notice is no longer valid and has been amended to August 31, 2010, pursuant to section 53 of the *Act*.

During the hearing the landlord agreed that this date should be amended and therefore no further Orders are required to Order the landlord to comply with the Act with regards to this Two Month Notice.

As the tenants have been successful with their claim they are entitled to recover the \$50.00 filing fee from the landlord pursuant to section 72(1) of the Act.

Conclusion

The date of the Two Month Notice has been amended to August 31, 2010.

I further order that the landlord pays the filing fee of \$50.00 to the tenant. A Monetary Order has been issued for \$50.00. A copy of the Order must be served on the landlord. If the amount of the order is not paid by the landlord, the Order may be filed in the Provincial (Small Claims) Court of British Columbia and enforced as an order of that court.

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: July 19, 2010.

Dispute Resolution Officer