



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNL, OLC, PSF, FF

Introduction

This matter dealt with an application by the Tenant to cancel a Notice to End Tenancy for the Landlord's Use of the Property, to have the Landlord comply with the Act and to have the Landlord provide services.

The Tenant said he served the Landlord with the Application and Notice of Hearing (the "hearing package") by personal delivery on December 7, 2010. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenant's hearing package as required by s. 89 of the Act and the hearing proceeded with both parties in attendance.

Issues(s) to be Decided

1. Is the Landlord entitled to End the Tenancy?
2. Is the Landlord complying with the Act?
3. Is the Tenant entitled to services from the Landlord?

Background and Evidence

This tenancy started in December 1, 2007 as a month to month tenancy. Rent is \$790.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$395.00 on December 1, 2007.

The Landlord said she served the Tenant with a 2 Month Notice to End Tenancy for the Landlord's use of the Property on November 8, 2010. The Landlord said the effective vacancy date on the notice is January 1, 2011. She continued to say her son and his girl friend want to move into the rental unit on January 1, 2011. The Landlord said she submitted written statement from her son and his girlfriend stating that they were moving into the rental unit on January 1, 2011.

The Tenant said that he was first told the Landlord's sister was moving to Canada and that is why he had to move out. He said now the Landlord is saying that her son is moving in. He said he didn't know what to believe. The Tenant said he is not disputing that the son may be moving into the rental unit now.

As well the Tenant said that the Landlord stopped him using the washer and dryer on November 1, 2010. He said he submitted a letter from the Landlord stating this. The

Tenant requested the Landlord to comply with the Act and provide services that are part of the tenancy.

The Landlord said they did write the Tenant to stop the Tenant's using the laundry equipment as they thought other people were using it as well. The Landlord said that the Tenant has full use of the laundry again.

The Tenant continued to say that the Landlord shut the heat off to his unit after they issued the Notice to End Tenancy and he wanted an order to make the Landlord comply with the Act and maintaining heat in his unit.

The Landlord said she did not shut the heat off to the Tenant's unit it was just a cold period and the house is poorly insulated. She said she will maintain heat to the unit and she will comply with the Act.

Analysis

Section 53 says the director can change an effective date on a Notice to End Tenancy if the date is incorrect.

The Notice to End Tenancy for Landlord's Use of the Property dated November 1, 2010 has an effective date of January 1, 2011. The correct effective date should be February 1, 2011 as the Notice must be issued a full two months prior to the effective date and on a day prior to the day rent is due. I order the effective date on the Notice to End Tenancy dated November 1, 2010 to be changed to February 1, 2011.

As well, since the Tenant is not disputing the Landlord's son is the person using the rental unit and as a child is considered immediate family under section 49 of the Act, I dismiss the Tenant's application to cancel the Notice to End Tenancy with leave to reapply. As well, it was noted during the Hearing the Landlord is to comply with section 51 of the Act and provide the Tenant with one month of free rent or the equivalent in a monetary payment of \$790.00 as a result of issuing a 2 Month Notice to End Tenancy for Landlord's Use.

As well I find for the Tenant and Order the Landlord to Comply with the Act and provide laundry services to the Tenant and heat to the Tenant's rental unit.

In addition since the Tenant has been partially successful I order the Tenant to recover the filing fee for this proceeding of \$50.00 from the Landlord. I order the Landlord to pay the Tenant \$50.00 for the cost of this proceeding.



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Conclusion

I dismiss the Tenant's application to cancel the Notice to End Tenancy and the effective vacancy date of that notice is changed to February 1, 2011. The Tenancy will end on February 1, 2011.

An Order of Possession effective February 1, 2011 has been issued to the Landlord. A copy of the Orders must be served on the Tenants: the Order of Possession may be enforced in the Supreme Court of British Columbia.

I order the Landlord to comply with the Act and maintain laundry services and heat to the Tenant.

I order the Landlord to pay the Tenant \$50.00 for the filing fee for this proceeding.

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*.
