

## DECISION

Dispute Codes      MNDC, OPT, LAT, RR, O

### Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to change the locks to the rental unit pursuant to section 70;
- an Order of Possession for the rental unit pursuant to section 54;
- an order to be allowed to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- authorization to recover their filing fee for this application from the landlord pursuant to section 72; and
- other actions as requested by the tenants.

Both parties attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions. The parties agreed that the landlord provided the tenants with a May 3, 2011 letter requiring them to end their tenancy by July 1, 2011 in accordance with the landlord's copy of their Residential Tenancy Agreement (the Agreement) and a May 20, 2011 One Month Notice to End Tenancy for Cause (1 Month Notice) delivered on May 20, 2011. The landlord confirmed that she received a copy of the tenants' dispute resolution hearing package sent by registered mail on May 11, 2011. I am satisfied that the above documents and the parties' evidence packages were served to one another in accordance with the *Act*.

### Preliminary Matters

At the commencement of this hearing, I asked for clarification of the tenants' application for an Order of Possession for this rental unit. They confirmed that they continue to reside in the rental unit and that no Order of Possession is necessary. They withdrew this part of their application.

On May 26, 2011, the Residential Tenancy Branch (the RTB) received an amended application for dispute resolution from the tenants in which they added a request to cancel the landlord's 1 Month Notice. On their amended application, the tenants noted that they received the landlord's 1 Month Notice on May 25, 2011. Although the landlord noted that the tenants' amended application for dispute resolution was not served to her in a way authorized by the *Act*, she confirmed that she did receive it on May 27, 2011. She testified that she was prepared to speak to the tenants' amended application as she preferred to deal with this entire matter in one hearing. On that

basis, I allowed the tenants' amended application for dispute resolution and added the tenants' application to dismiss the landlord's 1 Month Notice, pursuant to section 47 of the *Act*, to the issues to be considered at this hearing.

#### Issues(s) to be Decided

Are the tenants entitled to a monetary award for services and facilities (i.e., heat; access to the laundry appliances) that were to have been included in their tenancy agreement but which have been reduced by the landlord during this tenancy? Are the tenants allowed to change the locks on the rental unit? Are the tenants entitled to dismiss the landlord's 1 Month Notice to end this tenancy? Are the tenants entitled to recover their filing fee from the landlord?

#### Background and Evidence

This six-month fixed term tenancy commenced on January 1, 2011. The landlord resides above the tenants in this building. Monthly rent for this basement suite is set at \$750.00, payable in advance on the first of each month. The parties disputed a provision in their Agreement requiring the tenants to vacate the premises at the end of the six month period on July 1, 2011. They entered into written evidence two different versions of their Agreement, both of which were initialled, dated and signed by the parties. In the landlord's copy of the Agreement, the tenants were to vacate the premises on July 1, 2011. In the tenants' copy of the Agreement, the tenancy may continue on a month-to-month basis or another fixed period at the end of the six-month fixed term on July 1, 2011. At the hearing, both parties submitted the originals of these Agreements, which showed different terms with respect to this portion of the Agreement.

In the tenants' application for a monetary award of \$1,000.00, the tenants requested a monetary award of \$150.00 per month for the duration of their tenancy for the landlord's failure to provide them with adequate heat in their rental unit. The landlord has sole access and control over the programmable thermostat in this property. The tenants also applied for a monetary award of \$50.00 per month for their restricted use of the washer and dryer in this rental unit. On this latter point, the parties agreed that the tenants were presently permitted exclusive use of these laundry facilities from Monday through Thursday each week. The landlord has exclusive use of the laundry facilities on Friday, Saturday and Sunday.

#### Analysis

Pursuant to section 63 of the *Act*, the dispute resolution officer may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order.

During the course of this hearing, the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

During the course of this hearing, the parties reached an agreement to settle their dispute.

1. The landlord agreed to withdraw the 1 Month Notice to End Tenancy for Cause and allow the tenancy to continue.
2. The parties agreed that this tenancy would continue as a month-to-month tenancy from July 1, 2011 until August 31, 2011.
3. The tenants agreed to vacate the rental premises by one o'clock in the afternoon on August 31, 2011.
4. The tenants agreed to withdraw their claim for a monetary award for reduced rent resulting from the landlord's failure to provide services and facilities she committed to provide as part of their Tenancy Agreement.
5. The parties agreed that the schedule for use of the laundry facilities in the property until June 12, 2011 and from July 7, 2011 until the end of this tenancy would be revised to allow the tenants exclusive use of these facilities (i.e. the washer and dryer) on Mondays, Wednesdays, Fridays and Sundays.
6. The landlord agreed to set the programmable thermostat in this property 2 degrees Centigrade higher than its present setting until June 12, 2011, resulting in an overnight setting of 22 degrees Centigrade over that period.
7. The tenants agreed to return the landlord's heater to the landlord by June 12, 2011, the date when the tenants leave the country for a vacation.
8. The parties agreed that the landlord would consider written requests from the tenants regarding the provision of heat to the rental unit if the tenants find the rental unit too cold when they return to the rental unit on July 7 after their vacation.
9. The landlord agreed to ensure that all of the tenants' mail received at the house is forwarded to the tenants.
10. The tenants agreed to withdraw all other aspects of their application for dispute resolution.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties.

#### Conclusion

To give effect to the settlement reached between the parties and as discussed at the hearing, I issue the attached Order of Possession to be used by the landlord if the tenant does not vacate the rental premises in accordance with their agreement. Should

the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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*.