

Interim Decision

Dispute Codes: CNL, MNDC

Introduction / Background

This hearing was convened in response to an application by the tenants for cancellation of the landlord's notice to end tenancy for landlord's use of property / and a monetary order as compensation for damage or loss under the Act, regulation or tenancy agreement. Both parties participated in the hearing and gave affirmed testimony.

The tenancy began in April 1995. At the outset, monthly rent was \$650.00. Later it was reduced to the present amount of \$600.00. A security deposit of \$325.00 was collected.

The landlord issued a 2 month notice to end tenancy for landlord's use of property dated September 28, 2011. The notice was served in person on the tenants on that same date. The tenants filed an application to dispute the notice on October 13, 2011. The reason shown on the notice for its issuance is as follows:

The landlord has all necessary permits and approvals required by law to demolish the rental unit or repair the rental unit in a manner that requires the rental unit to be vacant.

The landlord testified that she was not in possession of the tenants' application for dispute resolution and notice of hearing (the "hearing package") or any of the tenants' documentary evidence. Despite this, evidence submitted by the tenants includes the Canada Post tracking numbers for the registered mailing of the hearing package, in addition to other documentary evidence. The landlord stated that she is frequently away from the address used by the tenants for mailing, and that she has not provided anyone with a means to access the mail delivered to her in her absence. However, the tenants undertook to alert the landlord to the scheduled hearing by way of e-mail. Subsequently, the landlord contacted the Residential Tenancy Branch (the "Branch") and obtained the particulars necessary for calling into the conference call.

Section 63 of the Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, and in consideration of all the circumstances, discussion between the parties during the hearing led to an interim resolution. Specifically, it was agreed as follows:

- that this hearing will be adjourned and re-scheduled to January 2012, on a date yet to be determined, and that the notice of hearing will be mailed to the parties by the Branch under separate cover;
- that as soon as possible the tenants will re-mail the hearing package and all related documentary evidence to the landlord by regular mail at the same address they previously used for the landlord;
- that the tenants will include with the above, a cheque for the full payment of rent for each of the months of November & December 2011, and January 2012;
- that the tenants will also include with the above, a detailed breakdown of the manner in which they have calculated the amount of the monetary order sought in their application which is \$22,711.40;
- that the tenants will also forward to the Branch a copy of the detailed breakdown of the manner in which they have calculated the amount of the monetary order sought in their application, as above;
- that the tenancy will continue uninterrupted pending the outcome of the hearing to be held in January 2012;
- that the landlord has the option of filing her own an application for dispute resolution, and requesting that it be joined with the tenants' application to be heard as a cross application at the same time in January 2012.

The parties are advised that the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Conclusion

I hereby order that this hearing be adjourned and rescheduled for January 2012.

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*.

DATE: November 9, 2011

Residential Tenancy Branch

