



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNL / OPL

Introduction

This hearing was scheduled in response to an application by the tenants for cancellation of a 2 month notice to end tenancy for landlord's use of property. Both parties attended the hearing and gave affirmed testimony. During the hearing the landlord orally confirmed that he seeks an order of possession in the event that the tenants' application does not succeed.

Issue(s) to be Decided

Whether either party is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

There is no written tenancy agreement for this month-to-month tenancy which began on February 1, 2008. Monthly rent is \$775.00 and a security deposit of \$387.50 was collected.

The landlord issued a 2 month notice to end tenancy for landlord's use of property dated November 24, 2011. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenants must vacate the unit is January 30, 2012. The reason shown on the notice for its issuance is as follows:

The landlord has all the 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.

While the tenants filed an application to dispute the notice on December 9, 2011, which is within the 15 day period available to them to do so, during the hearing the parties informed me that the tenants subsequently gave the landlord 10 days notice of their intent to vacate the unit effective December 31, 2011. A copy of the tenants' notice is not before me, but the parties appear to agree that it is dated December 21, 2011. It

was noted during the hearing that on the landlord's notice under the heading, **Compensation for Tenants**, it reads in part as follows:

If this is a periodic tenancy, a tenant who receives this Notice can give 10 days notice and move out early. The landlord must still pay the tenant one month's rent as compensation.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

In view of the change in circumstances since the tenants filed their application, I consider the tenants' application to be withdrawn. Further, in response to the landlord's oral request, I find that the landlord is entitled to an order of possession. Going forward, the attention of the parties is drawn to the following specific sections of the Act:

Section 49: **Landlord's notice: landlord's use of property**

Section 50: **Tenant may end tenancy early following notice under certain sections**

Section 51: **Tenant's compensation: section 49 notice**

Section 38: **Return of security deposit and pet damage deposit**

Conclusion

The tenants' application is withdrawn.

I hereby issue an **order of possession** in favour of the landlord effective not later than **1:00 p.m., Saturday, December 31, 2011**. This order must be served on the tenants. Should the tenants fail to comply with the order, the order may be filed in the Supreme 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: December 29, 2011.

Residential Tenancy Branch