



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC, FF

Introduction

This hearing was scheduled in response to an application by the tenants for cancellation of a 1 month notice to end tenancy for cause / and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

Issue(s) to be Decided

Whether the tenants are entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement the month-to-month tenancy began on July 15, 2010. The agreement shows that monthly rent of \$1,425.00 is payable in advance on the first day of each month. However, during the hearing the parties agreed that monthly rent is presently only \$1,350.00. A security deposit of \$712.50 was collected.

The landlords issued a 1 month notice to end tenancy for cause which appears to be dated February 14, 2012. After being served with the notice, the tenants filed an application to dispute it on February 13, 2012. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenants must vacate the unit is March 31, 2012. Reasons shown on the notice for its issuance are as follows:

Tenant or a person permitted on the property by the tenant has:

significantly interfered with or unreasonably disturbed another occupant or the landlord

put the landlord's property at significant risk

Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

During the hearing the tenants stated that as they have found another place to live, they are withdrawing their application for cancellation of the notice to end tenancy. The tenants also stated that they may be vacating the unit as early as this evening.

During the hearing the landlords made an oral request for an order of possession to be effective on the effective date of the 1 month notice which is March 31, 2012.

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

The tenants withdrew their application for cancellation of the notice to end tenancy. Accordingly, the tenants' application for cancellation of the notice and recovery of the filing fee is hereby dismissed.

Section 55 of the Act addresses **Order of possession for the landlord**, and provides in part:

55(1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,

- (a) the landlord makes an oral request for an order of possession, and
- (b) the director dismisses the tenant's application or upholds the landlord's notice.

Following from the landlords' oral request for an order of possession during the hearing, and pursuant to the statutory provisions set out immediately above, I find that the landlords have established entitlement to an order of possession.

Conclusion

The tenants' application for cancellation of the notice to end tenancy and recovery of the filing fee is hereby dismissed.

I hereby issue an **order of possession** in favour of the landlords effective not later than **1:00 p.m., Saturday, March 31, 2012**. 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: February 29, 2012.

Residential Tenancy Branch