



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC, FF / OPC

Introduction

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

During the hearing the landlords confirmed that they seek an order of possession in the event the tenants' application does not succeed.

Issue(s) to be Decided

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

Background and Evidence

During the hearing there appeared to be no dispute between the parties that the tenancy began in mid 2009. Monthly rent of \$600.00 is due and payable in advance on the first day of each month, and a security deposit of \$300.00 was collected.

It appears that when the tenants made an earlier application for dispute resolution (file #792521), it was in response to a letter from the landlords by date of August 9, 2012, in which the landlords undertook to give notice to end the tenancy. Subsequently, the hearing scheduled for September 24, 2012 was cancelled by the tenants, even while it appears that the landlords were not consulted by the tenants in advance about the cancellation. The tenants referred to this as an honest "misunderstanding."

Thereafter, the tenants filed another application for dispute resolution on October 22, 2012. In this application the tenants specifically seek to have a notice to end tenancy for cause set aside. Following this, by way of registered mail on November 8, 2012, the landlords served a 1 month notice to end tenancy for cause. While it was mailed on November 8, 2012, the notice is dated October 6, 2012, and the Canada Post website informs that it was "successfully delivered" on November 13, 2012.

During the hearing the parties exchanged views on some of the circumstances surrounding the various aspects of their dispute.

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

Section 63 of the Act speaks to the **Opportunity to settle dispute**. Pursuant to this provision, discussion between the parties led to a resolution of the dispute. Specifically, it was agreed as follows:

RECORD OF SETTLEMENT

- that the tenants will vacate the unit by no later than 1:00 p.m., Sunday, March 31, 2013, and that an order of possession will be issued in favour of the landlords to that effect;
- that the tenants are not precluded from ending the tenancy prior to March 31, 2013 by giving the landlords proper notice to end the tenancy pursuant to section 45 of the Act which addresses **Tenant's notice**.

As the parties achieved a settlement of their dispute, I find that the tenants have established entitlement to recovery of \$25.00, which is half the filing fee. I order that the tenants may withhold this amount from the next regular payment of monthly rent.

Conclusion

I hereby issue an order of possession in favour of the landlords effective 1:00 p.m., Sunday, March 31, 2013. 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.

I hereby order that the tenants may withhold **\$25.00** from the next regular payment of monthly rent in order to recover half the filing fee.

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: November 28, 2012.

Residential Tenancy Branch

