



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

CNL, MNDC, OLC

Introduction

This hearing was convened in response to the Tenant's Application for Dispute Resolution, in which the Tenant applied to set aside a Notice to End Tenancy for Landlord's Use of Property; for a monetary Order for money owed or compensation for damage or loss; and for an Order requiring the Landlord to comply with the *Residential Tenancy Act (Act)* or the tenancy agreement.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, to call witnesses, and to make submissions to me.

The Landlord submitted documents to the Residential Tenancy Branch, copies of which were served to the Tenant. The Tenant acknowledged receipt of the Landlord's evidence and it was accepted as evidence for these proceedings. The Tenant submitted documents to the Residential Tenancy Branch, copies of which were served to the Landlord. The Landlord acknowledged receipt of the Tenant's evidence and it was accepted as evidence for these proceedings.

Issue(s) to be Decided

Should the Notice to End Tenancy for Landlord's Use, served pursuant to section 49 of the *Act*, be set aside; is there a need for an Order requiring the Landlord to comply with the *Act*, and is the Tenant entitled to compensation for a breach of his right to the quiet enjoyment of his rental unit?

Background and Evidence

The Landlord and the Tenant agree that this tenancy began on January 18, 2012 and that the Tenant is currently required to pay monthly rent of \$500.00.

The Landlord and the Tenant agree that a Two Month Notice to End Tenancy for Landlord's Use of Property was personally served to the Tenant on November 30, 2012. The parties agree that this Notice indicated that the Landlord wished to end the tenancy because the Landlord intends to occupy the rental unit.

The Landlord and the Tenant agree that the Landlord previously served the Tenant with a Two Month Notice to End Tenancy for Landlord's Use of Property for the same reason, which was the subject of a dispute resolution proceeding on November 16, 2012. A copy of the decision from this proceeding was submitted in evidence by the Tenant. In that decision the Arbitrator determined that the Landlord had an "ulterior motive for ending the tenancy".

At the hearing on January 15, 2012, the Landlord stated that nothing new has occurred since the hearing on November 16, 2012 and the date that she served a new Two Month Notice to End Tenancy for Landlord's Use of Property. She stated that she served the most recent Notice to End Tenancy so she could provide further evidence of her need to occupy the rental unit.

At the hearing I informed the parties that I was setting aside Notice to End Tenancy that was served on November 30, 2012 because there were no substantial changes to the circumstances relating to the Landlord's desire to end the tenancy between the date of the hearing on November 16, 2012 and November 30, 2012, when the Landlord served the Tenant with another Notice to End Tenancy for Landlord's Use of Property. I informed the parties that I believed the Landlord was attempting to end the tenancy for the same reasons that were considered at the hearing on November 16, 2012, and that I was precluded from reconsidering whether or not this tenancy should end for the purposes of the landlord moving into the rental unit, as that matter has been previously determined.

After being advised of my decision to set aside the Notice to End Tenancy and after considerable discussion, the Landlord and the Tenant agreed to settle this dispute under the following terms:

- The parties mutually agree to end this tenancy on April 30, 2013
- The Tenant is not obligated to pay rent for February, March, or April of 2013
- The Landlord will make every effort to ensure that the Tenant's right to the quiet enjoyment of his rental unit is not breached by unreasonable noises, such as banging or stomping
- The Tenant retains the right to file another Application for Dispute Resolution seeking compensation if his right to the quiet enjoyment of the rental unit is breached during the remainder of the tenancy
- The parties will only communicate in writing for the remainder of the tenancy.

Conclusion

On the basis of the aforementioned settlement agreement, I grant the Landlord an Order of Possession that is effective at 1:00 p.m. on April 30, 2013. This Order may be served on the Tenant, filed with 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: January 15, 2013

Residential Tenancy Branch

