



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC, MNDC, OLC
OPC

Introduction

This hearing was scheduled in response to the tenant's application for cancellation of a 1 month notice to end tenancy for cause / a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / and an order instructing the landlord to comply with the Act, Regulation or tenancy agreement. Both parties attended and gave affirmed testimony.

During the hearing the landlord confirmed that he seeks an order of possession in the event the tenant's 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 this hearing the parties frequently interrupted each other, spoke over each other and, in general, were argumentative. The hearing was concluded after 30 minutes of testimony.

In response to an application by the landlord, a previous hearing was held in a dispute between these parties (file # 811150) with a decision issued by date of August 19, 2013. In that decision, some of the particulars related to the on-going difficulties between the landlord, this tenant, and another tenant are set out in detail. In his application the landlord sought an early end of tenancy and an order of possession arising from the 1 month notice to end tenancy which is at issue in this present hearing. In the decision the Arbitrator documents, in part, as follows:

...I have insufficient evidence that would allow me to end this tenancy early and find it would not be unreasonable or unfair for the landlord to wait for a Notice to end Tenancy for cause to be heard at the hearing on September 12, 2013.

The written tenancy agreement in evidence is not a standard written tenancy agreement. The tenancy began on June 1, 2013, monthly rent is \$535.00, and a security deposit of \$200.00 was collected.

Pursuant to section 47 of the Act which addresses **Landlord's notice: cause**, the landlord issued a 1 month notice to end tenancy. A copy of the notice was submitted in evidence. The notice is incorrectly shown as having been issued on September 1, 2005. The landlord testified that the notice was served in-person on August 1, 2013, while the tenant testified that the notice was served on August 7, 2013. The date shown on the notice by when the tenant must vacate the unit is September 1, 2013. Two (2) of the seven (7) reasons identified on the notice in support of 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

Tenant has not done required repairs of damage to the unit / site

The tenant filed an application to dispute the notice on August 7, 2013.

As for compensation, the tenant seeks a total of \$465.00 (\$310.00 + \$155.00) arising from his allegation that the landlord has withheld access to laundry, cable and internet.

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 47 of the Act provides in part as follows:

47(1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

(d) the tenant or a person permitted on the residential property by the tenant has

(i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,...

(g) the tenant does not repair damage to the rental unit or other residential property, as required under section 32(3) [*obligations to repair and maintain*], within a reasonable time;

Section 55 of the Act addresses **Order of possession for the landlord**, 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.

Based on the documentary evidence and testimony of the parties, and in view of the above statutory provisions, the tenant's application for cancellation of the 1 month notice is hereby dismissed, and I find that the landlord has established entitlement to an order of possession. In summary, I find that the landlord has met the burden of proving that the tenant has "significantly interfered with or unreasonably disturbed another occupant or the landlord." Further, I find that by way of his own acknowledgement, the tenant damaged the unit door by way of making screw holes, and has failed to repair them within a reasonable time; rather, the tenant appears to have taken the position that the landlord has the option to repair the screw holes and recover the associated costs from the tenant's security deposit.

In the absence of a standard written tenancy agreement or other relevant evidence, I find that the tenant has not met the burden of proving entitlement to compensation in the amount of \$465.00. Accordingly, this aspect of the tenant's application is also hereby dismissed.

As the end of tenancy nears, the attention of the parties is drawn to section 38 of the Act which addresses **Return of security deposit and pet damage deposit**.

Conclusion

The tenant's application is hereby dismissed in its entirety.

I hereby issue an **order of possession** in favour of the landlord effective not later than **Monday, September 30, 2013**. This order must be served on the tenant. Should the tenant 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: September 16, 2013

Residential Tenancy Branch

