



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Vancouver Park Lane Towers Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: ET / OP

Introduction

This hearing was scheduled in response to the landlord's application for an early end of tenancy and an order of possession. Both parties attended and gave affirmed testimony.

Issue(s) to be Decided

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

Background and Evidence

Pursuant to a written tenancy agreement, the tenancy began on June 1, 1986. Monthly rent is due and payable in advance on the first day of each month. The current monthly rent is \$600.00. A security deposit of \$225.00 was collected.

In October 2013 the tenants filed an application for dispute resolution, seeking an order instructing the landlord to make emergency repairs for health or safety reasons / a reduction in rent for repairs, services or facilities agreed upon but not provided / and recovery of the filing fee. A hearing was scheduled on November 14, 2013 in response to the tenants' application.

The landlord filed an application on October 16, 2013, seeking an early end of tenancy and an order of possession as a result of the allegedly uninhabitable status of the unit. Documentary evidence in support of the landlord's application includes a report from "PK," a structural engineer dated October 15, 2013, in which he states, in part, as follows:

Based on the observed structural conditions, the house is rated as unsafe for occupation due to high risk of injury if and when extreme weather conditions or

seismic event may occur. Extensive repairs and code upgrades are required on the interior and exterior in order to make the structure safe. This will required that the current occupants will have to move out for the duration of construction of 3 to 4 months.

During the hearing the parties undertook to resolve the 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**, and provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion led to a resolution and it was specifically agreed as follows:

RECORD OF SETTLEMENT

- that the tenants will permanently vacate the current unit as soon as possible, but by no later than **midnight, Thursday, October 31, 2013**, and that an **order of possession** will be issued in favour of the landlord to that effect;
- that **effective immediately** the tenants will not sleep overnight within the current unit;
- that **effective immediately** the tenants will sleep either at a hotel / motel (identified during the hearing and known to both parties) or in their RV which is situated on the property adjacent to the current unit;
- that the tenants will contact and make the necessary arrangement with a mover to relocate them and their belongings from the current unit to the landlord's Winter Street unit;
- that possessions being moved from the current unit to the Winter Street unit include all vehicles and other belongings located on the property adjacent to the current unit;
- that the landlord's contractor will move the tenants' rabbit hutch from the current unit to the Winter Street unit;

- that the parties will enter into a new tenancy agreement with respect to the Winter Street unit for the period from **November 1, 2013 to April 30, 2014**, at which time the tenants must vacate the unit;
- that the tenants may end the fixed term tenancy at the Winter Street unit before April 30, 2014 if they so choose, without penalty;
- that a **new written tenancy agreement** will be made available for the signatures of both parties as soon as possible but by no later than **November 1, 2014**;
- that rent is waived for the month of October 2013;
- that rent for the month of November 2013 is \$1.00, and that rent for the month of December 2013 is \$1.00;
- that rent for each of the months of January, February, March & April 2014 is \$600.00;
- that the landlord will return to the tenants all post-dated rent cheques previously issued for October, November & December 2013, as well as January & February 2014;
- that the landlord will pay the tenants the full amount of **\$4,290.00** by way of Certified Cheque, Bank Draft, or Money Order by no later than **October 28, 2013**;
- that the above payment is comprised as follows:
 - i) \$2,400.00: *tenants' prospective move to Powell River*
 - ii) \$1,000.00: *tenants' move to the Winter Street unit*
 - iii) \$640.00: *tenants' stay at hotel / motel between now and end of tenancy in the current unit*
 - iv) \$200.00: *cost of tenants' changeover(s) for mail, hydro, telephone and water*
 - v) \$50.00: *filing fee paid by tenants*
- that the hearing scheduled on November 14, 2013 in response to the tenants' application is cancelled, as all matters in dispute have been resolved between the parties during the present hearing.

Conclusion

All aspects of the dispute pertaining to both, the landlord's application and the tenants' application are resolved, as set out above.

I hereby issue an **order of possession** in favour of the landlord effective not later than **midnight, Thursday, October 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.

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: October 25, 2013

Residential Tenancy Branch

