



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPC, FF
CNC, MNDC, MNSD

Introduction

This hearing was scheduled in response to 2 applications: i) by the landlord for an order of possession for cause / and recovery of the filing fee; and ii) by the tenant for cancellation of a notice to end tenancy for cause / a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / and return of the security deposit. Both parties attended and / or were represented and gave affirmed testimony.

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

There is no written tenancy agreement in evidence for this tenancy which began around October 2012. At the start of tenancy, monthly rent of \$750.00 was due and payable in advance on the first day of each month, and a security deposit of \$375.00 was collected. Several months into the tenancy, monthly rent was reduced to \$700.00.

Pursuant to section 47 of the Act which speaks to **Landlord's notice: cause**, the landlord issued a 1 month notice to end tenancy for cause dated October 28, 2013. The notice was served by way of posting on the unit door on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is November 30, 2013. Reasons shown on the notice in support of its issuance are as follows:

Tenant has allowed an unreasonable number of occupants in the unit

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 caused extraordinary damage to the unit / site or property / park

While the tenant filed an application to dispute the notice on November 5, 2013, the tenant vacated the unit by the end of November. To date, the tenant has not provided the landlord with a forwarding address.

During the hearing the parties attempted 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

As the tenant has vacated the unit, I consider the landlord's application for an order of possession to be withdrawn, and the tenant's application for cancellation of the notice to end tenancy for cause to be withdrawn.

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. In order to expedite the conclusion of the dispute, the landlord's agent withdrew the landlord's application to recover the filing fee.

The tenant also expressed a wish to conclude the dispute as soon as possible. In this regard, the tenant indicated that all matters in dispute would be resolved to her satisfaction if the landlord were to agree to the return of her full security deposit. The landlord's agent agreed to discuss this proposal with the landlord (his father) who was not present at the hearing, and to contact the tenant by telephone to inform her of the landlord's decision.

In the event the parties agree that the tenant's full security deposit will be returned, the parties will need to make practical arrangements around how that will occur. However, in the event there is no agreement, then the attention of the parties is drawn to section 38 of the Act which speaks to **Return of security deposit and pet damage deposit**.

Conclusion

The landlord's application for an order of possession and recovery of the filing fee are both withdrawn.

The tenant's application for cancellation of a notice to end tenancy for cause is withdrawn.

The tenant's application for a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / and return of the security deposit are both hereby dismissed with leave to reapply.

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: December 2, 2013

Residential Tenancy Branch

