



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OPT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47; and
- an Order of Possession of the rental unit pursuant to section 54.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to cross-examine one another. The tenant was represented by his advocate who had spoken with him one hour before this hearing and given instructions and authorization to act on his behalf.

The landlord made an oral request for an end to this tenancy, and if necessary, the issuance of an Order of Possession. He said that the rental unit is still being repaired from a November 2, 2013 fire that occurred while the tenant was residing in that unit.

Issues(s) to be Decided

Should the landlord's 1 Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession? Should any other orders be issued with respect to this tenancy?

Background and Evidence

The landlord entered into written evidence a number of documents, including a copy of the landlord's 1 Month Notice. The landlord gave undisputed testimony that the tenant obtained alternate accommodations after the fire of November 2, 2013, as the rental unit was significantly damaged during that fire. He said that many of the tenant's personal possessions were so badly damaged in the fire that they could not be salvaged and were discarded. The landlord has retained some of the tenant's personal possessions, but many of these remaining items are also damaged.

Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings,

the settlement may be recorded in the form of a decision or an order. During the hearing, the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute. The tenant's advocate reiterated that she was empowered to enter into the following settlement agreement on the tenant's behalf.

Both parties agreed to the following settlement of all issues in dispute arising out of this application under the following final and binding terms:

1. Both parties agreed that this tenancy has ended and that the landlord will be issued an immediate Order of Possession.
2. The tenant's advocate agreed on the tenant's behalf to withdraw his application to cancel the landlord's 1 Month Notice.
3. The landlord agreed to make available to the tenant any personal possessions that the tenant wishes to remove from the rental property upon making prior arrangements to do so between the hours of 11:00 a.m. and 5:00 p.m.
4. The tenant's advocate agreed on the tenant's behalf that the tenant will telephone the landlord before the tenant attends the rental property to obtain his possessions so that arrangements can be made to ensure that the landlord is available to provide the tenant's belongings to the tenant.
5. The tenant's advocate agreed on the tenant's behalf that the tenant will be responsible for removing any of his items he wishes to obtain that are presently in the landlord's possession by 5:00 p.m. on January 16, 2014.
6. Both parties recognized that the tenant's personal possessions that have been salvaged from the fire of November 2, 2013 have received some damage in that fire, and may not be in a condition that remains useful.
7. Both parties agreed that this constituted a final and binding resolution of the issues in dispute in the tenant's application.

Conclusion

To give effect to the settlement reached between the parties and as discussed at the hearing, I issue the attached Order of Possession to be used by the landlord if necessary. The landlord is provided with these Orders to take immediate possession of this rental unit and the tenant must be served with this Order in the event that the tenant makes any attempt to occupy or re-occupy the rental unit. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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 09, 2014

Residential Tenancy Branch

