



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL FF
 CNL CNQ FF

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by both the Landlord and the Tenants.

The Landlord filed seeking an Order of Possession for Landlord's use of the property. The Landlord's Agent stated the following in the Details of the Dispute:

"Tenants refused to sign agreement with the new Landlord. Tenants has been serve with 2 month notice to vacate the place. Refused to leave. Landlord obtained permission to renovate the place" [sic]

The Tenants filed seeking Orders to cancel a Notice to end tenancy for landlord's use and for reasons that the tenant does not qualify for subsidized housing; and to recover the cost of the filing fee. The Tenants wrote the following in the Details of the Dispute on their application:

"...It was explained to us verbally that landloard [sic] wants to rent the apartment to their cousins for \$2,500 and they have already signed the agreement..."

The parties appeared at the teleconference hearing and gave affirmed testimony.

Issue(s) to be Decided

Has the Landlord withdrawn the 2 Month Notices to end tenancy issued January 25, 2014 and January 30, 2014?

Background and Evidence

At the outset of this proceeding the Landlord stated that her property manager had jumped the gun in issuing the eviction notices as she had not received the required paperwork at that time. She had attempted to withdraw her application but when she called the *Residential Tenancy Branch* on February 28, 2014, she was told she could not cancel the hearing.

The Landlord testified that she was withdrawing the 2 Month Notice issued January 25, 2014 and the 2 Month Notice that was issued January 30, 2014. The Landlord advised that the property manager is no longer in her employ and she would be managing the rental herself at this point.

The Tenant testified that they are still seeking to recover costs incurred as a result of this matter. The parties were given an opportunity to settle the costs. The Landlord stated that she accepts responsibility for the filing fee cost; however, she does not accept responsibility for other costs incurred by the Tenants in disputing these Notices.

A brief discussion took place where the Landlord agreed to contact the Tenants on March 20, 2014, to provide them information about the Landlord's contact information and moving forward without communicating through the property manager. The Tenants requested information on how to pay their rent and the Landlord instructed the Tenants to continue to send their rent cheques to the same address they had been sending them in the past.

Analysis

The Landlord withdrew the 2 Month Notice issued January 25, 2014 and the 2 Month Notice that was issued January 30, 2014.

As the two Notices have been withdrawn, the Tenants' application is now moot. That being said, I find the Tenants are still entitled to recover the cost of their \$50.00 filing fee, as they would not have suffered that loss had the property manager not "jumped the gun" in issuing the Notices.

Section 59 (2)(b) of the Act stipulates that an application for dispute resolution must include full particulars of the dispute that is to be the subject of the dispute resolution proceedings.

Section 59 (5)(c) of the Act states that the director may refuse to accept an application for dispute resolution if the application does not comply with subsection (2).

In this case the Tenants submitted evidence which included a monetary order worksheet indicating they were seeking costs incurred as a result of being issued the Notices. The Tenants Application for Dispute Resolution did not list a request to seek a Monetary Order. Therefore, I declined to hear matters pertaining to a monetary order request for damage or loss, as their application does not meet the requirements set out in section 59(2)(b) of the Act. The claim for costs incurred to respond to the Notices is dismissed, with leave to reapply.

Conclusion

The Landlord's application is dismissed, as the 2 Month Notices issued January 25, 2014, and January 30, 2014, have been withdrawn.

The Tenants have been issued a Monetary Order in the amount of **\$50.00** as recovery of the filing fee. The Tenants may deduct this one time award of \$50.00 from their next rent payment or they may choose to serve the Order upon the Landlords to recover payment. In the event that the Landlord does not comply with this Order it may be filed with the Province of British Columbia Small Claims Court 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: March 14, 2014

Residential Tenancy Branch

