



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW HEARING DECISION

Dispute Codes: CNL, OPT, OLC, FF
OPL

Introduction

This hearing was originally scheduled for March 21, 2014. In summary, pursuant to a Decision issued by date of March 24, 2014, the landlord's notice to end tenancy for landlord's use of property was set aside, and an order of possession was issued in favour of the tenant. Subsequently, the landlord filed an application for Review Consideration. In the result, by way of Review Consideration Decision dated April 04, 2014, the Decision of March 24, 2014 was suspended until such time as a new hearing was completed. Both parties attended this new hearing scheduled for June 02, 2014, and gave affirmed testimony.

In her application the tenant seeks cancellation of a notice to end tenancy for landlord's use of property / an order of possession for the rental unit / an order instructing the landlord to comply with the Act, Regulation or tenancy agreement / and recovery of the filing fee.

During the hearing the landlord confirmed that she 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

The unit which is the subject of this dispute is located in a 4 level house. Considering the house in an upward level beginning at ground level, the tenant lives in level 1 (basement); the landlord's daughter lives in level 2; two other renters live in level 3; and one additional renter lives in level 4.

There is no written tenancy agreement in evidence for this tenancy which began on January 01, 1985. Monthly rent of \$530.00 is due and payable in advance on the first day of each month. Neither a security nor pet damage deposit was collected.

Pursuant to section 49 of the Act which speaks to **Landlord's notice: landlord's use of property**, the landlord issued a 2 month notice to end tenancy dated February 20, 2014. The notice was served in-person on February 22, 2014. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is April 30, 2014. The reason identified on the notice in support of its issuance is as follows:

The rental unit will be occupied by the landlord or the landlord's spouse or a close family member (father, mother, or child) of the landlord or the landlord's spouse.

The tenant filed an application to dispute the notice on March 06, 2014.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, 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 tenant will vacate the unit not later than **1:00 p.m., Sunday, August 31, 2014**, and that an **order of possession** will be issued in favour of the landlord to that effect;
- that the landlord will not seek to recover the \$50.00 filing fee paid by the tenant which, pursuant to the Decision dated March 24, 2014, was previously recouped by the tenant by way of withholding \$50.00 from an earlier payment of monthly rent.

In the meantime, for information, the attention of the parties is drawn to the following particular sections of the Act:

Section 37: **Leaving the rental unit at the end of a tenancy**

Section 50: **Tenant may end tenancy early following notice under certain sections**

Section 51: **Tenant's compensation: section 49 notice**

Section 52: **Form and content of notice to end tenancy**

Finally, pursuant to section 82 of the Act which speaks to **Review of director's decision or order**, the Decision dated March 24, 2014 is hereby set aside.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective **1:00 p.m., Sunday, August 31, 2014**. 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: June 02, 2014

Residential Tenancy Branch

