



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OPT, OPR, OPC

Introduction

This hearing dealt with applications from both the landlord and the tenants under the *Residential Tenancy Act* (the *Act*). The landlord applied for:

This hearing dealt with the landlord's application pursuant to section 55 of the *Residential Tenancy Act* (the *Act*) for an Order of Possession for cause and for unpaid rent. The tenant applied 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, to call witnesses and to discuss their applications with one another. The tenant confirmed that the landlord handed her the 1 Month Notice on April 30, 2014. The landlord confirmed that he received a copy of the tenant's dispute resolution hearing package sent by the tenant by registered mail on May 12, 2014. The tenant confirmed that she received a copy of the landlord's dispute resolution hearing package sent by the landlord by registered mail on May 15, 2014. I am satisfied that the parties served one another with the above documents and their written evidence in accordance with the *Act*.

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 tenant and her late husband moved into this rental unit on or about February 15, 2010. According to the terms of their initial two-year fixed term tenancy agreement, monthly rent was set at \$900.00. By the time the landlord assumed ownership of this property in April 2012, the landlord understood that the monthly rent was \$1,000.00, less \$100.00 per month for maintenance performed by the tenant's husband on the property. No written tenancy agreement has been created for this tenancy, and as such, I accept the tenant's sworn testimony that the monthly rent has been set at \$900.00, payable in advance on the first of each month. The tenant said that she paid the previous owner of this property a \$450.00 security deposit in February 2010. Although the landlord has no knowledge as to the security deposit, I accept on a balance of probabilities the tenant's sworn testimony regarding the security deposit.

The landlord entered into written evidence a copy of his 1 Month Notice, requiring the tenant to end this tenancy by May 31, 2014. In this Notice, the landlord cited the following reasons for seeking an end to this tenancy:

Tenant is repeatedly late paying rent...

Tenant or a person permitted on the property by the tenant has:

- *significantly interfered with or unreasonably disturbed another occupant or the landlord;*
- *seriously jeopardized the health or safety or lawful right of another occupant or the landlord;*
- *put the landlord's property at significant risk....*

Tenant has assigned or sublet the rental unit/site without landlord's written consent.

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.

Both parties agreed to a final and binding resolution of their applications and the issues under dispute under the following terms:

1. The tenant agreed to pay the landlord \$2,493.28 for rent owing or owed for May, June and July 2014 by July 1, 2014.
2. The landlord agreed that if the tenant abides by the monetary terms as outlined above, he will withdraw any notices to end tenancy he has issued to the tenant.
3. The landlord agreed to prepare a Standard Residential Tenancy Agreement for this tenancy setting out the terms and conditions of the tenancy, including the provision whereby the tenant provides the landlord with monthly rent set at \$900.00, payable in advance on the first of each month, for a fixed term to end on May 31, 2015.
4. The tenant agreed to sign a properly prepared Standard Residential Tenancy Agreement setting the terms of this tenancy as described in this settlement agreement.
5. The landlord agreed to include in the Residential Tenancy Agreement he creates a provision to allow the tenant to remain in the rental unit for May 2015 without the tenant's payment of any rent for that month, provided the tenant abides by the monetary terms of this settlement agreement and also meets her monthly rent commitments until May 1, 2015.
6. Both parties agreed that if the tenant abides by the monetary terms of this agreement, as outlined above, that this tenancy will continue until May 31, 2015, by which time this tenancy will have ended and the tenant will have vacated the rental unit.

7. Both parties agreed that the terms of this settlement agreement constituted a final and binding resolution of their applications for dispute resolution and in dispute at this time.

Conclusion

In support of the parties' settlement agreement, I hereby provide the Landlord with an Order of Possession and a Monetary Order in the amount of \$2,493.28, both of which are null and void if the Tenant complies with the terms of the agreement as set out above. **If the Landlord does not receive payment in the amount of \$2,493.28 by July 1, 2014, the Landlord may enforce the enclosed Monetary Order and Order of Possession and the Tenant will have until 1:00 p.m. on July 4, 2014, to vacate the rental unit.**

I issue the attached Order of Possession to be used by the landlord **only** if the tenant does not comply with the monetary terms of their agreement **and** fails to vacate the rental premises in accordance with their agreement. The landlord is provided with these Orders in the above terms and the tenant must be served with this Order in the event that the tenant does not vacate the premises in accordance with their agreement. 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.

I deliver the monetary Order to the landlord in support of the above agreement for use **only** in the event that the tenant does not abide by the terms of the above settlement. The landlord is provided with these Orders in the above terms and the tenant must be served with a copy of these Orders as soon as possible after a failure to comply with the terms of the above settlement agreement. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders of that Court. This Decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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 27, 2014

Residential Tenancy Branch

