



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Bayside Property Services Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MT, CNC, CNR, OLC, RP, FF, O, OPR, OPC, MNR, MNSD

Introduction

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

- an Order of Possession for cause and for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to retain the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee from the tenant pursuant to section 72.

The tenant applied for:

- more time to make an application to cancel the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 66;
- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- cancellation of the landlord's 1 Month Notice pursuant to section 47;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to make repairs to the rental unit pursuant to section 33;
- authorization to recover his filing fee from the landlord pursuant to section 72; and
- other unspecified remedies.

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 cross-examine one another. The tenant confirmed that the landlord's building manager handed him the 1 Month Notice on April 25, 2014. He also confirmed that he received the landlord's 10 Day Notice which the landlord's building manager testified he posted on the tenant's door on May 2, 2014. The landlord's female representative (the landlord) confirmed that on April 8, 2014, the landlord received a copy of the tenant's dispute resolution hearing package sent to her by the tenant by courier. The tenant testified that on May 14, 2014, he received a copy of the landlord's dispute resolution

hearing package which the landlord testified that she sent to the tenant by registered mail on May 9, 2014 photographic evidence packages. I am satisfied that the parties served one another with all of the above documents in accordance with the *Act*.

At the commencement of this hearing, the landlord testified that she was no longer pursuing an end to this tenancy on the basis of the 10 Day Notice and withdrew that portion of her application for dispute resolution. The tenant also withdrew his application to seek a cancellation of that Notice. Both of these portions of the parties' applications are hereby withdrawn.

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? Is the landlord entitled to a monetary award? Is the landlord entitled to retain a portion of the tenant's security deposit in partial satisfaction of the monetary award requested? Should any other orders be issued with respect to this tenancy? Are either of the parties entitled to recover their filing fees for their applications from one another?

Background and Evidence

This periodic tenancy began on or about May 1, 2011. Monthly rent of \$811.00 was recently increased to \$828.00 as of May 1, 2014. The landlord continues to hold the tenant's \$375.00 security deposit paid when this tenancy began.

The landlord entered into written evidence a copy of the 1 Month Notice requiring the tenant to end this tenancy by May 31, 2014. In that 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:

- *put the landlord's property at significant risk.*

Tenant has caused extraordinary damage to the unit/site or property/park.

Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

Prior to this hearing, the landlord reduced the amount of the landlord's requested monetary award from \$903.00 to \$75.00. The landlord's amended application for a monetary award was for the recovery of a fee for the tenant's late payment of rent and the landlord's filing fee. The tenant also applied for the recovery of his \$50.00 filing fee from the landlord.

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 engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to resolve all issues currently under dispute under the following final and binding terms of settlement:

1. Both parties agreed that this tenancy will end by 1:00 p.m. on June 30, 2014, by which time the tenant will have vacated the rental unit.
2. Both parties agreed that the settlement terms as outlined above satisfied all parts of their applications for dispute resolution, including their requests for monetary awards.
3. Both parties agreed that the terms of this settlement agreement constituted a final and binding resolution of all issues currently under dispute as outlined in their applications and arising out of this tenancy.

Conclusion

The applications to uphold the 10 Day Notice and cancel that Notice are withdrawn.

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 the tenant does not vacate the rental premises by 1:00 p.m. on June 30, 2014, 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 by the time and date set out in their agreement. Should the tenant(s) 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: May 29, 2014

Residential Tenancy Branch

