



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, MND, MNSD, FF, CNC, ERP, OLC, O

### Introduction

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

- an Order of Possession for cause pursuant to section 55;
- a monetary order for damage to the rental unit pursuant to section 67;
- authorization to retain all or a portion of the tenants' pet damage and security deposits (the deposits) in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover his filing fee for this application from the tenants pursuant to section 72.

The tenants applied for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 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 emergency repairs to the rental unit pursuant to section 33; and
- other remedies, described in the tenants' application as a request that the landlord comply with the provisions of the *Act* with respect to the provision of rental premises where the tenant(s) are provided with no loss of quiet enjoyment and where they are free from unreasonable disturbance during this tenancy.

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 female tenant (the tenant) confirmed that she received the landlord's 1 Month Notice, which she maintained was posted on her door on or about March 30, 2014. The landlord testified that he handed this Notice to her on that date. The landlord confirmed that on April 6, 2014, he received a copy of the tenants' dispute resolution hearing package which the tenant testified that she sent by registered mail on April 4, 2014. The tenant confirmed that she received a copy of the landlord's dispute

resolution hearing package by registered mail on or about April 25, 2014. I am satisfied that the landlord and the female tenant served the above documents to one another as well as their written evidence in accordance with the *Act*. As the landlord did not serve the male tenant with either his hearing package or his written evidence, I am not satisfied that the landlord has served the male tenant with these documents in accordance with section 88 or 89 of 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? Is the landlord entitled to a monetary award for damage arising out of this tenancy? Should any orders be issued against the landlord? Is the landlord entitled to retain all or a portion of the tenants' deposits in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenant?

#### Background and Evidence

On June 11, 2011, all of the parties named in the applications signed a periodic Residential Tenancy Agreement (the Agreement) that took effect on July 1, 2011. Monthly rent was initially set at \$700.00, but has increased to \$730.00, during the course of this tenancy. The tenant testified that the male tenant, her son, has not been residing at the rental unit since at least December 2013. The parties agreed that the landlord continues to hold the \$350.00 security deposit and \$350.00 pet damage deposit paid shortly after this tenancy began. Although the landlord said that a joint move-in inspection was conducted, he testified that he did not prepare a written report of that inspection.

The tenants' application requested a repair of mould and deficient flooring which she maintained presented a health and safety risk. She also noted in her application that she was looking for alternate accommodations, but believed that the landlord had issued the 1 Month Notice in response to her request for repairs.

The landlord's application requested a monetary award of \$700.00 for a series of repairs, which he maintained were the responsibility of the tenants. He confirmed that he has not undertaken any of these repairs and has not submitted any receipts to substantiate his claim for losses arising out of damage caused by the tenant(s).

#### 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.

The tenant confirmed that she was acting on her own behalf and on behalf of her son. She also confirmed that she was authorized to enter into a settlement agreement with the landlord. Both parties in attendance agreed to settle all issues arising out of their applications under the following final and binding terms:

1. Both parties agreed that this tenancy will end by 1:00 p.m. on June 15, 2014, by which time the tenant(s) will have vacated the rental unit and yielded vacant possession to the landlord.
2. The parties agreed that the tenant will pay \$365.00 in rent for June 2014.
3. The tenant agreed to pay the landlord for all outstanding hydro and gas bills provided to her by the landlord for the period ending on June 15, 2014.
4. Both parties agreed to withdraw all remaining portions of their applications.
5. Both parties agreed that the return of the tenants' security and pet damage deposit will be determined in accordance with the normal provisions of the *Residential Tenancy Act* depending on the condition of the rental unit at the end of this tenancy.
6. Both parties agreed that this settlement agreement constituted a final and binding resolution of all issues in dispute arising out of this tenancy at this time.

### 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 the tenant(s) do not vacate the rental premises in accordance with their agreement. The landlord is provided with these Orders in the above terms and the tenant(s) must be served with this Order in the event that the tenant(s) do 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 23, 2014

---

Residential Tenancy Branch

