



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPC, CNC, MNSD, MNDC, ERP, LA, and FF

Introduction

This hearing was convened in response to cross applications.

The Landlord filed an Application for Dispute Resolution in which the Landlord applied for an Order of Possession and to recover the fee for filing an Application for Dispute Resolution.

The Tenant filed an Application for Dispute Resolution, in which the Tenant applied to set aside a Notice to End Tenancy for Cause; for a monetary Order for emergency repairs and money owed or compensation for damage or loss; for the return of the security deposit; for authority to change the locks; and to recover the fee for filing an Application for Dispute Resolution.

The Landlord and the Tenant agree that on June 08, 2014 the Landlord placed the Landlord's Application for Dispute Resolution, the Notice of Hearing, and documents the Landlord wishes to rely upon as evidence through an open window in the rental unit. The male Tenant stated that he grabbed the Landlord's arm; that the Landlord dropped the documents on the floor; and that he retrieved them from the floor.

Although section 88 or 89 of the *Residential Tenancy Act (Act)* does not allow a landlord to serve documents through an open window, I find that these documents have been sufficiently served to the Tenant, pursuant to section 71(2)(c) of the *Act*. The Tenant was advised that while the method of service may be a breach of the Tenant's right to the quiet enjoyment of the rental unit, that issue is not in dispute at this hearing and will not be considered at these proceedings.

On May 05, 2014 the Landlord submitted 40 pages of evidence to the Residential Tenancy Branch. On June 06, 2014 the Landlord submitted 68 pages of evidence to the Residential Tenancy Branch. The Landlord initially stated that all of these documents were served to the Tenant on June 08, 2014. The Landlord subsequently stated that he only served approximately 76 pages of evidence to the Tenant on June 08, 2014.

The male Tenant stated that the Landlord served the Tenant with approximately 76 pages of evidence.

The male Tenant stated that on May 03, 2014 the Tenant's Application for Dispute Resolution and Notice of Hearing were mailed to the Landlord, via registered mail. The Landlord acknowledged receipt of these documents.

On June 10, 2014 the Tenant submitted 27 pages of evidence to the Residential Tenancy Branch. The male Tenant stated that an amended Application for Dispute Resolution and the documents the Tenant wishes to rely upon as evidence were placed in the Landlord's mail box by a third party on June 10, 2014. The landlord stated that he received these documents on June 11, 2014.

The parties were advised that when deciding this matter I will only consider documents that have been submitted to the Residential Tenancy Branch and that have been served to the other party. The parties were further advised that before a document is considered at this hearing I will ensure that it has been submitted to the Residential Tenancy Branch and that it has been served to the other party.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession or should the Notice to End Tenancy be set aside?

Is the Tenant entitled to a monetary Order for the cost of emergency repairs and time spent preparing for these proceedings?

Should the security deposit be refunded to the Tenant?

Should the Tenant be granted authority to change the locks as the Landlord has threatened to enter the rental unit after providing 24 hours notice?

Background and Evidence

After considerable discussion the Landlord and the Tenant mutually agreed to settle all issues in dispute in these proceedings under the following terms:

- The tenancy will end on September 30, 2014, unless the Tenant gives proper notice to end the tenancy prior to that date
- The Tenant will reduce the rent payment for July of 2014 by \$484.00
- The Landlord will not seek any compensation for damages arising from a backed up sewer line or from the Tenant's attempt to clean up the resulting waste

- The Tenant is not obligated to cut the grass, clear blocked drains, repair leaky faucets, or repair windows, unless the Tenant causes the damage by actions or neglect
- The Landlord will give proper notice to inspect the rental unit and will not enter the rental unit without proper authority
- The Landlord will make every effort not look into the rental unit through the windows.

Analysis

These disputes have been settled in accordance with the aforementioned terms. For the benefit of both parties, I remind them of their rights/obligations of section 29 of the *Act*, which reads:

- 29(1) A landlord must not enter a rental unit that is subject to a tenancy agreement for any purpose unless one of the following applies:
- (a) the tenant gives permission at the time of the entry or not more than 30 days before the entry;
 - (b) at least 24 hours and not more than 30 days before the entry, the landlord gives the tenant written notice that includes the following information:
 - (i) the purpose for entering, which must be reasonable;
 - (ii) the date and the time of the entry, which must be between 8 a.m. and 9 p.m. unless the tenant otherwise agrees;
 - (c) the landlord provides housekeeping or related services under the terms of a written tenancy agreement and the entry is for that purpose and in accordance with those terms;
 - (d) the landlord has an order of the director authorizing the entry;
 - (e) the tenant has abandoned the rental unit;
 - (f) an emergency exists and the entry is necessary to protect life or property.
- (2) A landlord may inspect a rental unit monthly in accordance with subsection (1) (b).

Conclusion

On the basis of the settlement agreement, I grant the Landlord an Order of Possession that is effective at 1:00 p.m. on September 30, 2014. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

This settlement agreement is recorded and the Order granted on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: June 19, 2014

