



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Notice to End Tenancy was personally served on the Tenant on October 7, 2014. Further I find that the Application for Dispute Resolution/Notice of Hearing was personally served on the landlord on October 10, 2014. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issue to be decided is whether the tenant is entitled to an order cancelling the Notice to End Tenancy dated October 7, 2014?

Background and Evidence

The tenancy began on June 12, 2014. The tenancy agreement provided that the tenant(s) would pay rent of \$650 per month payable on the first day of each month. The tenant(s) paid a security deposit of \$325 at the start of the tenancy.

Grounds for Termination

The Notice to End Tenancy relies on section 47(1)(d) of the Residential Tenancy Act.

That section provides as follows:

Landlord's notice: cause

47 (1)(d) the tenant or a person permitted on the residential property by the tenant has

- (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
- (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or

...

(e) the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that

...

- (ii) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or
- (iii) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;

Preliminary Matter:

The tenant disputes the one month Notice to End Tenancy. The tenant's applied for an adjournment on the basis that two of her witnesses were out of town and that she needed more time to provide paperwork. The landlord opposed the adjournment. I determined the tenant, as applicant had ample time to prepare for the hearing and that an adjournment was not appropriate. I ordered that the hearing proceed.

The landlord presented evidence. It became apparent that the landlord was relying on evidence that had not reached the file. The landlord testified she provided the Residential Tenancy Branch with evidence late last week. The Rules of Procedure provides a respondent must ensure documents and digital evidence that is intended to be relied on at the hear must be given to the Residential Tenancy Branch and the other side as soon as possible and in all events not less than 7 days before the hearing. The landlord stated the evidence was important. It became apparent that it would be necessary to adjourn this hearing in order for this documentary evidence to be considered.

Settlement:

After some lengthy discussion the parties reached a settlement and they asked that I record the settlement pursuant to section 63(2) of the Residential Tenancy Act as follows:

- a. The parties mutually agree to end the tenancy on January 31, 2015.
- b. The parties request the arbitrator issue an Order for Possession for that date.

As a result of the settlement I granted an Order for Possession effective January 31, 2015.

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

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: November 24, 2014

Residential Tenancy Branch

