



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding K.S.T. MANAGEMENT INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MT, CNC, O

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- more time to make an application to cancel the landlord's 1 Month Notice to End Tenancy for Cause, dated September 20, 2014 ("1 Month Notice"), pursuant to section 66;
- cancellation of the landlord's 1 Month Notice, pursuant to section 47; and
- other remedies, identified as a monetary order to obtain compensation for losses incurred by the tenant during this tenancy.

The landlords' agent (also referred to as "landlords") and the tenant attended the hearing and were each given a full opportunity to be heard, to present their sworn testimony, to make submissions and to call witnesses. This hearing was scheduled for 11:00 a.m. and the tenant connected to the hearing late at 11:03 a.m. and the landlord's agent connected to the hearing late at 11:10 a.m. The landlord confirmed that she has authority to represent the landlord company, KSTMI, at this hearing.

The landlords' agent testified that the 1 Month Notice was posted to the door of the tenant's rental unit, on September 20, 2014. The tenant states that he received the 1 Month Notice on October 4, 2014, after returning from a trip, when it was personally handed to him by the landlord WJ at 8:00 p.m., in the presence of a police officer. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was served with the 1 Month Notice.

The tenant testified that he personally served the landlord WJ, named in this application, with the Application for Dispute Resolution hearing package ("Application") on November 9, 2014. Section 89(1)(b) of the *Act* permits service of an application by leaving a copy with an agent of the landlord. The landlords' agent confirmed that the landlord WJ is an agent of the landlords, and that he and the landlord company KSTMI,

both received the Application on November 9, 2014. In accordance with sections 89 and 90 of the *Act*, I find that the landlords were served with the tenant's Application on November 9, 2014.

At the outset of the hearing, both parties confirmed that they were agreeable to amending the tenant's application to add the name of the landlord company KSTMI to this application and to amend the style of cause on the front page of this decision, to reflect this change. The landlords' agent consented to this amendment and confirmed that the landlords are not prejudiced by it, as the landlord company was properly served with the Application, it had notice of the hearing and she is appearing as agent for the landlord company. In accordance with section 64(3)(c) of the *Act* and Residential Tenancy Policy Guideline 23, I granted the requested amendment and the landlord company KSTMI was added as a landlord party to this application, as reflected on the cover page of this decision.

Issue(s) to be Decided

Should the tenant be permitted more time to make an application to cancel the landlords' 1 Month Notice?

Should the landlords' 1 Month Notice be cancelled?

Is the tenant entitled to "other remedies" identified as a monetary order to obtain compensation for losses during this tenancy?

Background and Evidence

The landlords' agent testified that this periodic tenancy began on March 1, 2014. Monthly rent is payable in the amount of \$575.00 due on the first day of each month. A security deposit of \$287.00 was paid by the tenant on March 1, 2014, which the landlords continue to hold. A written tenancy agreement governs this tenancy, although one was not provided at the hearing.

The tenant states that he was unable to dispute the 1 Month Notice within 10 days because he was dealing with a family emergency and was out of town from October 6 to 21, 2014.

The tenant testified that the landlords changed his locks when he returned from his trip on October 4, 2014 and again on November 10, 2014. He had to call the police on both occasions and had a security company provide him with the appropriate keys to enter

his rental unit. He stated that he was required to put his belongings in storage and stay in a hotel, costs which he is attempting to recover from the landlord. He states that this is the "other remedy" which he is seeking at this hearing. He did not apply for a monetary order in his Application, he did not provide details of any loss amounts, and he did not provide any receipts to support his testimony. The landlords do not have notice of his application for this specific relief for the above reasons. Therefore, I notified the tenant that he would be required to make a new application for a monetary order and provide details and supporting evidence at that time. Accordingly, the tenant's application for "other remedies," is abandoned, as the tenant applied for the incorrect relief.

The hearing proceeded on the tenant's remaining two applications, for more time to make an application to cancel the landlord's 1 Month Notice and to cancel the 1 Month Notice.

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.

The landlords and tenant agreed to the following final and binding settlement of all issues currently under dispute at this time:

1. Both parties agreed that this tenancy will end by 1:00 p.m. on December 8, 2014, by which time the tenant will have vacated the rental unit.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties. Both parties gave verbal sworn affirmation at the hearing that they agreed to the above term and understood that this settlement is final and binding, and settles all aspects of this dispute.

Conclusion

To give effect to the settlement reached between the parties, I issue the attached Order of Possession to be used by the landlord(s) **only** if the tenant fails to vacate the rental premises by 1:00 p.m. on December 8, 2014. The landlord(s) are provided with this Order 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 1:00 p.m. on December 8, 2014. 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.

The tenant's application for "other remedies," is abandoned.

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: December 11, 2014

Residential Tenancy Branch

