



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SHAUGHNESSY MANAGEMENT INC
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, OPC, OPB, FF

Introduction

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

- an Order of Possession for Cause and a breach of a material term of the tenancy agreement pursuant to section 55; and
- authorization to recover the 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; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

Both parties, both tenants and the landlord's manager ("the landlord") attended the hearing. Both parties were given a full opportunity to be heard, to present their sworn testimony, and to make submissions. Before the conclusion of this hearing, the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Background and Evidence

This one year fixed term tenancy began on July 1, 2014 with the possibility of continuing on a month to month basis after June 30, 2015. Two tenants, Tenant KS and Tenant DL, signed a rental agreement for the premises with a rental amount of \$1125.00 payable on the first day of each month. The landlord continues to hold a security deposit in the amount of \$562.00 paid on June 9, 2014. In addressing settlement of this issue, the parties testified that Tenant DL was moving out of the rental unit.

The landlord provided evidence that a 1 Month Notice to End Tenancy was personally served to Tenant DL on December 29, 2014 and sent by registered mail to Tenant KS on December 24, 2014. Both tenants confirmed receipt of the 1 Month Notice. Tenant KS testified that he personally served the landlord with his Application for Dispute Resolution package on January 7, 2015. The landlord confirmed receipt of the tenant's Dispute Resolution package. The landlord testified that he personally served both tenants with individual packages including the Application for Dispute Resolution and Notice for Hearing on January 13, 2015. I accept that both tenants were served December 29, 2014 with the 1 Month Notice. I accept that the landlord was duly served the tenant's Application for Dispute Resolution package and the tenants were both duly served with the landlord's Application for Dispute Resolution hearing package.

All parties, both tenants and the landlord's representative, agreed at the hearing that;

- the tenants had collectively made an unreasonable amount of noise, disturbing other tenants;
- the landlord had received more than one complaint about the noise;
- the landlord had provided proof that two tenants moved out because of the noise; and
- Tenant DL should not continue to reside on the residential premises.

Tenant DL agreed verbally during the hearing that, if she attends the residential premises after January 30, 2015, she will only do so when accompanied by Tenant KS.

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. Given the agreement reached between the parties during the proceedings, I find that the parties have settled their dispute and the following records this settlement as a decision:

The Parties mutually agree as follows:

1. The tenancy between the landlords and Tenant DL will end on January 30, 2015 at 1:00 p.m., by which time Tenant DL will vacate the rental unit and return her copy of the rental unit keys directly to the landlord.
2. Tenant KS agreed that after January 30, 2015, he will only allow Tenant DL on the residential premises in his presence.

3. The landlord committed to amend the rental agreement, deleting the name of Tenant DL, leaving a tenancy only between Tenant KS and the landlord.
4. The parties agreed that the tenancy between the landlord and Tenant KS will continue if there are no further noise complaints.
5. If the landlord seeks to end the tenancy with Tenant KS on or before February 28, 2015, he may do so only by serving the Order of Possession to Tenant KS two full weeks prior to February 28, 2015.
6. In the event that the landlord does not take action to end Tenant KS's tenancy by February 14, 2015, the landlord's 1 Month Notice is withdrawn.
7. These terms comprise the full and final settlement of all aspects of this dispute for both parties.

Conclusion

To give effect to the settlement reached between these parties, I issue the attached Order of Possession effective January 30, 2015 with respect to Tenant DL only.

To implement the agreement outlined above, I issue an attached Order of Possession effective February 28, 2015, with respect to Tenant KS, to be used **only** in the event that the landlord serves the tenant with the Order of Possession on or before February 14, 2015, two weeks prior to its execution. This Order of Possession effective February 28, 2015 is to be used **only** on February 28, 2015 and not after that date.

The landlord is provided with these Orders in the above terms and the tenant(s) must be served with these Orders as soon as possible after a failure to comply with the terms of the above settlement agreement. Should the tenant(s) fail to comply with these Orders, these Orders may be filed and enforced as an Order of the Supreme Court of British Columbia.

In the event that the landlord has not taken action to end Tenant KS's tenancy by February 14, 2015, the 1 Month Notice is withdrawn and of no force or effect.

I order the removal of Tenant DL's name from the residential tenancy agreement for the address on the first page of this order.

I order that Tenant DL abide by the condition of visiting the residence only in the presence of Tenant KS after January 30, 2015, and for the duration of the tenancy of Tenant KS.

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: February 5, 2015

Residential Tenancy Branch

