



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, MNSD

Introduction

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

- cancellation of the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property (the 2 Month Notice) pursuant to section 49;
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to obtain a return of all or a portion of their security deposit pursuant to section 38.

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. After waiting several minutes, first the male tenant (the tenant) and much later, the female tenant joined the teleconference. After the male tenant joined the teleconference, I reviewed with him the sworn testimony provided by the landlord and her witness.

The tenant testified that the landlord's witness (her brother) handed him a 2 Month Notice to End Tenancy for Landlord's Use of Property (the 2 Month Notice) on February 1, 2015. The landlord and her witness said that this happened on January 31, 2015. I am satisfied that the tenants were duly served with the 2 Month Notice in accordance with section 88 of the *Act*.

The landlord confirmed that the male tenant (the tenant) handed her a copy of the tenant's dispute resolution hearing package on February 14, 2015. The parties also agreed that they exchanged their written and photographic evidence with one another. Although I did not initially have the tenants' evidence submission at the start of this hearing, I was able to locate it a few minutes after the hearing began. I am satisfied that these documents were served in accordance with sections 88 and 89 of the *Act*.

At the commencement of the hearing, the landlord made an oral request for an Order of Possession in the event that the tenants' application to cancel the 2 Month Notice were dismissed.

Issues(s) to be Decided

Should the landlord's 2 Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession? Are the tenants entitled to a monetary award for losses arising out of their tenancy? Are the tenants entitled to a monetary award for the return of their security deposit?

Background and Evidence

The parties agreed that this tenancy commenced approximately eight or nine years ago. Although no written tenancy agreement is in place, monthly rent is \$725.00, which the tenant said is payable in advance on the last day of each month. Both tenants have their shelter assistance payments from the Ministry of Social Development and Social Innovation (the Ministry) paid directly to the landlord. The landlord did not dispute the tenant's assertion that a security deposit totalling \$362.50 was paid by the tenants to the landlord's now deceased father who owned the property when this tenancy began. The landlord continues to hold this deposit.

In addition to their application to cancel the landlord's 2 Month Notice, the tenants applied for a monetary award of \$585.00 for losses that they maintained they have incurred during the course of their tenancy.

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.

Both parties agreed to the following final and binding resolution of all issues currently under dispute arising out of the tenants' application and this tenancy:

1. Both parties agreed that this tenancy will end by 1:00 p.m. on April 1, 2015, the effective date identified in the landlord's 2 Month Notice, by which time the tenants will have vacated the rental premises.
2. The landlord agreed to forego the March 2015 rent due from the tenants in compliance with the provisions of the *Act* which follow the landlord's 2 Month Notice.

3. The female tenant and the landlord agreed to meet at the Ministry's N Office at 1:00 p.m. on Tuesday, March 10, 2015, to arrange for the female tenant's shelter assistance cheque from February 2015 to be reissued and forwarded directly to the landlord.
4. Both parties agreed that there is a \$363.50 security deposit in effect for this tenancy.
5. The landlord agreed to return the tenants' security deposit to the tenants on April 1, 2015, when possession of the rental unit is transferred to the landlord, provided that the tenants remove their possessions and any and all contents that have been accumulated during their tenancy from the rental property.

Both parties agreed that the above-noted terms constituted a final and binding resolution of all issues arising out of the tenants' application and 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 tenants do not vacate the rental premises by 1:00 p.m. on April 1, 2015, 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 tenants 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.

Pursuant to section 51(1.1) of the *Act*, I allow the tenants to forego paying rent for March 2015, the last month of their tenancy. I also order the landlord to return the tenant's security deposit in full by April 1, 2015, in the event that the tenants' abide by the terms of their commitment as outlined in section 5 of their settlement agreement.

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: March 06, 2015

Residential Tenancy Branch

