



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC MNDC OLC RP PSF RR O OPB FF

Introduction

This hearing dealt with applications by the landlord and the tenant. The landlord applied for an order of possession. The tenant applied to cancel a notice to end tenancy, as well as orders for monetary compensation, a reduction in rent, an order that the landlord comply with the Act, an order for repairs and an order that the landlord provide services or facilities required by law. Two of the landlords and the tenant participated in the teleconference hearing.

I determined that the issue of whether the tenancy would end took precedence, and only heard evidence on that issue. I will address the remainder of the tenant's application in the conclusion of my decision.

Issue(s) to be Decided

Is the landlord entitled to an order of possession pursuant to section 55(2)(c) of the Act?

Background and Evidence

The tenancy began on May 1, 2014 as a fixed-term tenancy to end on May 1, 2015. The landlord stated that the parties agreed that at the end of the fixed term the tenancy would end and the tenant would be required to move out. The tenant responded that she did not agree that the tenancy would end; rather, she and the landlord agreed that at the end of the fixed term the tenancy would revert to a month-to-month tenancy.

On February 17, 2015 the landlord served the tenant with an outdated Notice to End Tenancy form, in which the landlord indicated that they gave the tenant notice to vacate the rental unit by May 1, 2015, as the fixed term tenancy would end on that date.

The landlord DS stated that on March 15, 2014 she had prepared two copies of the tenancy agreement, she had the tenant initial and sign both copies and then she gave the tenant one of the two copies. The landlord stated that the tenant agreed and initialled the box indicating that the tenancy would end at the end of the fixed term, and the tenant would move out.

The tenant responded that the original tenancy agreement that she signed indicated that after the fixed term the tenancy would revert to month-to-month, as both parties agreed. The tenant stated that she did not initial the box indicating that she would move out at the end of the fixed term. The tenant also stated that there was only one copy of the tenancy agreement for her to sign and there was no addendum attached at that time. The tenant stated that the landlord did not give the tenant a copy of the tenancy agreement until they included a copy in their application. In her documentary evidence the tenant submitted a copy of an email dated August 8, 2014 sent from the tenant to the landlords KS and BS. In the email the tenant wrote, "just a reminder that I would like a copy of my lease agreement while you are home."

In the hearing I ordered the landlord to submit the original tenancy agreement to me. I received the original tenancy agreement on April 2, 2015. This document has been printed in both black and colour ink, and most of the information was filled out electronically before the document was printed. Other sections, such as the tenant's name, are handwritten in blue ink, with the exception of the landlord KS's initials, which is in black ink. The agreement is signed by the landlord DS and the tenant. In the section indicating the length of the tenancy, the box indicating that the tenancy would revert to a month-to-month tenancy is empty and clearly unaltered. The box indicating that the tenancy would end at the end of the fixed term and the tenant would move out is checked with a checkmark that was inserted electronically before the document was printed. The landlords DS and KS and the tenant all initialed the boxes indicating that this option was the option chosen.

Analysis

Based on the above-noted evidence regarding the tenancy agreement, I am satisfied that the document submitted by the landlord is the original tenancy agreement. Further, I am satisfied that the landlord did not alter the agreement, and the tenant and the landlord did agree that at the end of the fixed term the tenancy would end and the tenant would move out. The landlord is therefore entitled to an order of possession.

If the landlord failed to give the tenant a copy of the tenancy agreement, this failure of the landlord does not invalidate the agreement. The tenant could have applied for an

order that the landlord comply with the Act and produce a copy of the tenancy agreement, but she did not do so until after the landlord gave the tenant written notice that they would be enforcing the fixed term.

As the landlord's application was successful, they are entitled to recovery of the \$50 filing fee for the cost of their application.

Conclusion

The tenant's application to cancel a notice to end tenancy is dismissed. As the tenancy is ending, the portions of the tenant's application regarding a reduction in rent, an order that the landlord comply with the Act, an order for repairs and an order that the landlord provide services or facilities required by law are also dismissed without leave to reapply.

The tenant's monetary claim is dismissed with leave to reapply.

I grant the landlord an order of possession effective May 1, 2015. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

The landlord may retain \$50 from the security deposit as compensation for recovery of their filing fee.

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: April 7, 2015

Residential Tenancy Branch

