



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

CNR

Introduction

This hearing was held in response to the tenant's Application for Dispute Resolution in which the tenant has applied to cancel two 10 Day Notices to End Tenancy for Unpaid Rent compensation for damage or loss under the Act and return of the filing fee costs.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present affirmed oral testimony evidence and to make submissions to during the hearing. I have considered all of the evidence and testimony provided.

Preliminary Matters

The landlord confirmed that the 10 day Notice ending tenancy for unpaid rent issued on May 11, 2015 is of no force as the tenant paid the rent within five days of receipt of that Notice.

The landlord confirmed that rent was paid within 2 days of the issue date of the June 2, 2015 Notice ending tenancy for unpaid rent.

The landlord confirmed that neither of the 10 day Notices for unpaid rent issued and in dispute are valid and that the tenancy has not end as a result of the Notices.

At the start of the hearing I explained that the tenant's claim for loss of quiet enjoyment in the sum of \$500.00 would likely be severed from the current application and that the tenant would have leave to reapply. The parties were informed we would deal with the matters related to the end of tenancy first.

Mutually Settled Agreement

The parties mutually agreed, after taking time to consider their options, to the following:

- The tenancy will end effective October 31, 2015 at 1:00 p.m.;
- The landlord is entitled to an Order of possession effective at 1:00 p.m. on October 31, 2015;

- The landlord will send the tenant a copy of the move-in condition inspection report; and
- The one month Notice ending tenancy for cause issued on June 30, 2015 is withdrawn and is cancelled.

Section 62(3) of the Act provides:

(3) The director may make any order necessary to give effect to the rights, obligations and prohibitions under this Act, including an order that a landlord or tenant comply with this Act, the regulations or a tenancy agreement and an order that this Act applies

Therefore, in support of the mutually settled agreement I find and Order that the tenancy will end effective October 31, 2015 at 1:00 p.m. Therefore, I find the landlord is entitled to an Order of possession effective October 1, 2015 at 1:00 p.m. If the tenant fails to vacate, as agreed, the Order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the 1 month Notice ending tenancy for cause issued on June 30, 2015 is of no force and effect and is cancelled. The tenant is not required to dispute that Notice.

There is no dispute that rent is due on the first day of each month. As payment of rent has been in dispute I find that rent is considered paid on the date that the tenant sends the rent email transfer to the landlord. If the landlord accepts the rent email transfer on another date that date is not considered the date payment was made.

The parties are at liberty to make other applications for dispute resolution but were encouraged to reach the agreed end of this tenancy without the need for further arbitration.

This decision and mutually settled agreement is final and binding on the parties, unless otherwise provided under the Act, and 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: July 07, 2015

Residential Tenancy Branch