



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPL, FF
CNL, MNDC, FF

Introduction

This hearing concerns 2 applications:

- i) by the landlords for an order of possession for landlord's use of property / and recovery of the filing fee; and
- ii) by the tenant for cancellation of a notice to end tenancy for landlord's use of property / a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / and recovery of the filing fee.

Both parties attended and / or were represented and gave affirmed testimony.

Issue(s) to be Decided

Whether either party is entitled to any of the above under the Act, Regulation or tenancy agreement.

Background and Evidence

The unit which is the subject of this dispute is located in a 2 storey house. The subject unit is 1 of what are 2 units located in the lower level of the house. The landlords reside in the upper level of the house.

There is no written tenancy agreement in evidence for this month-to-month tenancy which began on April 01, 2011. Monthly rent of \$950.00 is due and payable in advance on the first day of each month, and a security deposit of \$440.00 was collected.

Pursuant to section 49 of the Act which addresses **Landlord's notice: landlord's use of property**, the landlords issued a 2 month notice to end tenancy dated August 14, 2015. The notice was served by way of registered mail. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate

the unit is October 31, 2015. The reason identified on the notice in support of its issuance is as follows:

The rental unit will be occupied by the landlord or the landlord's spouse or a close family member (father, mother, or child) of the landlord or the landlord's spouse.

The tenant filed an application to dispute the notice on September 01, 2015. In her application the tenant also seeks compensation for an alleged breach of the right to quiet enjoyment, and for an alleged restriction of services or facilities (hot water and heat) agreed upon but not provided. The landlords' application for dispute resolution was filed on September 29, 2015.

During the hearing the parties undertook to settle the dispute.

Analysis

Section 63 of the Act addresses the **Opportunity to settle dispute**, and provides that the parties may attempt to settle the dispute during a hearing. Pursuant to this provision, discussion led to resolution and it was specifically agreed as follows:

RECORD OF SETTLEMENT

- that the tenant will vacate the unit by not later than **Monday, November 30, 2015**, and that an **order of possession** will be issued in favour of the landlords to that effect;
- that the full amount of **rent due on November 01, 2015 is waived**, and that the waiving of November's rent fully satisfies the tenant's claim for compensation as set out in her application for dispute resolution;
- that the above particulars comprise **full and final settlement** of all aspects of the dispute which arise out of this tenancy for both parties, and which are presently before me.

Following from the above settlement, both applications for recovery of the filing fee are hereby dismissed.

Further, following from the settlement achieved by the parties during the hearing, I find there is no benefit in having this Decision address preliminary matters raised by the

parties at the outset of the hearing, which principally concern the tenant's request for an adjournment, and the late submission of evidence by both parties.

Finally, as the end of tenancy nears, the attention of the parties is drawn to the following particular sections of the Act:

Section 37: **Leaving the rental unit at the end of a tenancy**

Section 38: **Return of security deposit and pet damage deposit.**

Conclusion

I hereby issue an **order of possession** in favour of the landlords effective not later than **Monday, November 30, 2015**. This order must be served on the tenant. 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.

I hereby order that the tenant may **withhold payment** of the full amount **of rent due on November 01, 2015**.

The respective applications to recover the **\$50.00 filing fee** are hereby **dismissed**.

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: October 20, 2015

Residential Tenancy Branch

