



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, RP, AS, FF, O, MND, OPC & FF

Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the one month Notice to End Tenancy was personally served on the Tenant on August 20, 2015. Further I find that the Application for Dispute Resolution/Notice of Hearing filed by the Tenant(s) was personally served on the Landlords on August 24, 2015. I determined the Application for Dispute Resolution filed by the Landlord(s) was sufficiently served on the Tenant(s) by delivery to the address for service set out in the Tenants' Application on September 12, 2015. The Act provides that it is deemed received 5 days after mailing by registered mail..

Issue(s) to be Decided:

The issues to be decided are as follows:

- a. Whether the tenants are entitled to an order cancelling the one month Notice to End Tenancy dated August 20, 2015?
- b. Whether the tenants are entitled to a repair order?
- c. Whether the tenants are entitled to recover the cost of the filing fee?

- d. Whether the landlords are entitled to an Order for Possession?
- e. Whether the landlords are entitled to A Monetary Order and if so how much?
- f. Whether the landlords are entitled to recover the cost of the filing fee?

Background and Evidence

The tenant moved into the rental unit in July 2014. The landlords purchased the rental unit and took possession in January 2015. The parties entered into a one year fixed term tenancy agreement that provided that the tenancy would start on January 17, 2015 and end on January 16, 2016. The rent was \$1400 per month payable in advance on the first day of the month. The tenants paid a security deposit of \$700 at the start of the tenancy. The tenants have moved outside of the country for work. However, the tenant's adult son continues to live in the rental unit.

Settlement:

At the end of the hearing the parties reached a settlement and they asked that I record the settlement pursuant to section 63(2) of the Residential Tenancy Act as follows:

- a. The parties mutually agree to end the tenancy on November 30, 2015.
- b. The landlords agree that if the tenants vacate the rental unit by November 30, 2015 the landlords shall waive their right to claim for any loss of rent that may occur for the unexpired portion on the fixed term tenancy.
- c. The parties request the arbitrator issue an Order for Possession for November 3, 2015.
- d. The tenants represent they owe the landlord \$1040 in outstanding rent and will ensure the landlord received that rent by October 23, 2015.
- e. The tenants agree to pay the \$141.75 charge of the plumber to attend to fix the toilet at the end of August 2015.
- f. The tenants shall ensure the landlord receive the rent for November in the sum of \$1400 plus the \$141.75 charge of the plumber by November 1, 2015.
- g. The landlords agree that if the tenants make the payments as provided above the landlords shall allow the tenants and her son to live in the rental unit until

November 30, 2015 on a “use and occupation basis” at which time the tenants and their son must vacate.

- h. If the tenants fail to make the payments as provided above the landlords retain the right to enforce the Order for Possession through the procedures set out in the Residential Tenancy Act and Supreme Court of British Columbia.

Analysis - Order of Possession:

As a result of the settlement I granted an Order for Possession effective November 3, 2015. All other claims are dismissed.

The tenant(s) must be served with this Order as soon as possible. Should the tenants fail to comply with this settlement and Order, the landlords may register the Order with the Supreme Court of British Columbia for enforcement.

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 13, 2015

Residential Tenancy Branch

