



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

RR, LA, AAT, MT, and FF

Introduction

This hearing was convened in response to the Tenants' Application for Dispute Resolution, in which the Tenants applied for:

- more time to cancel a Notice to End Tenancy;
- authority to change the locks to the rental unit;
- authority to reduce the rent;
- an Order requiring the Landlord to provide the Tenants or the Tenants' guests with access to the rental unit; and
- to recover the fee for filing this Application for Dispute Resolution.

The Tenant stated that on September 14, 2015 the Application for Dispute Resolution, the Notice of Hearing, the evidence the Tenant submitted to the Residential Tenancy Branch on September 01, 2015 and September 14, 2015 were sent to the Landlord, via registered mail, at the service address noted on the Application. The Tenant stated that the Landlord was still living at the service address, which is next door to the rental unit, when she vacated the rental unit on October 31, 2015.

The Tenant noted on the returned envelope that the Landlord refused to accept the registered mail.

The Tenants submitted Canada Post documentation that indicates registered mail was sent on September 14, 2015 and that it was returned to the sender as the recipient had moved. On the basis of the testimony of the Tenant, who declared the Landlord was still living at the rental unit on October 31, 2015, I accept that the Canada Post documentation may be incorrect and that the Landlord was still residing at the service address when the aforementioned mail was delivered.

I therefore find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*; however the Landlord did not appear at the hearing. In the event the Landlord had moved from the service address by the time this registered mail was delivered to the service address, she has the right to file an Application for Review Consideration seeking a new hearing.

Preliminary Matter

During the hearing the Tenant stated the rental unit has been vacated and that she is withdrawing the Tenants' application for more time to cancel a Notice to End Tenancy; for authority to change the locks to the rental unit; and for authority to reduce the rent.

Issue(s) to be Decided

Should the Tenants be granted an Order requiring the Landlord to provide the Tenants or the Tenants' guests with access to the rental unit?

Background and Evidence

The Tenant stated that:

- this tenancy began on February 01, 2015;
- the Tenants agreed to pay rent by the first day of each month;
- the Tenants vacated the rental unit on October 31, 2015;
- during the tenancy the Tenants accessed the outdoor storage area by accessing the Landlord's residence, with a key the Landlord provided, and obtaining the key to the storage unit from inside the Landlord's residence;
- at some point in the tenancy the Landlord asked the Tenants to return the key to her residence, so the Tenants no longer had access to the key to the storage unit;
- when the Tenants were moving the Landlord was not available to provide the Tenants with access to the storage unit;
- the Tenants still have personal property in the storage unit;
- the Tenants have made no efforts to recover their personal property since they moved out of the rental unit; and
- the Tenants will need approximately two hours to remove their belongings from the storage unit.

The Tenants are seeking an Order requiring the Landlord to provide them with access to the storage unit. She stated that she works shift-work and the most convenient days for her in November of 2015 are the 14th, 15th, 21st, 22nd, 29th, and 30th.

Analysis

Section 31(1) of the *Act* stipulates that landlords must not change locks or other means that give access to residential property unless the landlord provides each tenant with new keys or other means that give access to the residential property.

Section 26(3) of the *Act* stipulates that whether or not a tenant pays rent in accordance with the tenancy agreement, a landlord must not seize any personal property of the tenant or prevent or interfere with the tenant's access to the tenant's personal property.

I find that the Landlord has breached sections 26(3) and 31(1) of the *Act* when asked the Tenants to return the key to the Landlord's residence thereby preventing the Tenants from accessing the key to the storage unit and she did not provide the Tenants with an alternate means of accessing the storage unit. I find this breach prevented the Tenants from accessing

the personal belongings they had stored in the storage unit when they vacated the rental unit on October 31, 2015.

Pursuant to section 62(3) of the *Act* I order the Tenants to provide the Landlord with their forwarding address or their telephone number within three days of receiving this decision. This will ensure the Landlord has the ability to contact the Tenants for the purposes of returning their personal property.

Pursuant to section 62(3) of the *Act* I order the Landlord to contact the Tenants within three days of receiving their forwarding address or telephone number and to arrange a mutually convenient time to provide the Tenants with access to the storage unit for the purposes of allowing them to remove their personal belongings.

In the event the Landlord and the Tenants are unable to reach a mutually agreeable time to meet for the purposes of providing the Tenants with access to the storage unit, I order both parties to meet at the storage unit on December 13, 2015 at 1:00 p.m. In the event the Landlord is not able to meet at this date/time she is obligated to send an agent who can provide the Tenants with access to the storage unit or to otherwise provide the Tenants with access to the storage unit on that date/time. In the event the Tenants are not able to meet at this date/time they are obligated to send an agent who can remove the Tenants' personal property on their behalf.

I find that the Tenants' Application for Dispute Resolution has merit and I find that they are entitled to compensation, in the amount of \$50.00, for the cost of filing this Application for Dispute Resolution.

Conclusion

The Tenants have established a monetary claim, in the amount of \$50.00, in compensation for the fee paid to file this Application for Dispute Resolution and I grant the Tenants a monetary Order for this amount. In the event that the Landlord does not comply with this Order, it may be served on the Landlord, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

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: November 12, 2015

Residential Tenancy Branch

