



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 583230 BC Ltd.
Vanak International Properties
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, OLC, OPR, MNR, FF

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order cancelling a notice to end tenancy – Section 46;
2. An Order for the Landlord to comply – Section 62; and
3. An Order to recover the filing fee for this application - Section 72.

The matter was adjourned from the first hearing date of August 17, 2015 and in the interim the Landlord's application was joined to be heard with the Tenant's application. The Landlord claims orders as follows:

1. An Order of possession – Section 55;
2. A Monetary Order for unpaid rent – Section 67;
3. An order for the recovery of the filing fee – Section 72;
4. Other.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

The Landlord stated at the outset that the Tenant has paid all rents due in accordance with previous Decisions and that no rents are outstanding. The Landlord states that they only want a determination in relation to the restoration of rent. The Landlord states the claims for the order of possession and unpaid rent were made in order to address the reversion of the rent and not because any rents were unpaid. The Tenant states that she is tired of the Landlord serving her with notices to end tenancy for unpaid rent and that she has had to take time off from classes to deal with the Landlord's application that has no merit. The Tenant states that the Landlord's evidence is not related to the primary matter of unpaid rent nor is the matter of the repairs

related to unpaid rent. The Tenant states that the Landlord is not following the orders made in previous decisions and wants an order that the Landlord comply with previous repair orders and to stop issuing notices to end tenancy for unpaid rent.

Based on the Landlord's evidence that the Tenant has not been in arrears, I find that the notice to end tenancy is not valid and I dismiss the Landlord's claims for an order of possession, unpaid rent and the filing fee. As the notice to end tenancy is not valid, I cancel the notice and find that the Tenant is entitled to recovery of the **\$50.00** filing fee. I order the Tenant to reduce future rent payable by this amount in full satisfaction of the claim.

It is clear that the Landlord's claims for the order of possession and a monetary order are baseless and that there was never any basis for the notice to end tenancy for unpaid rent. The interim decision notes that should the Landlord make an application for a rent review, this would be considered at this adjourned hearing. However, this joining was approved without having the benefit of the evidence provided at this hearing. The Landlord's use of the notice to end tenancy to trigger a dispute with the Tenant and to pursue an end of tenancy when the Landlord is fully aware that the notice is baseless is a flagrant misuse of the provisions of the Act. This is highly unfair to the Tenant and it does not serve the interests of natural justice. As a result and considering that the matter of the repairs is a complex matter that should be dealt with independently of baseless and unrelated claims, I dismiss the Landlord's claim for a determination in relation to ordered repairs with leave to reapply.

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 6, 2015

Residential Tenancy Branch

