



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPB, O & FF

Introduction

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. An Order for Possession on the basis the tenant has given a written notice to end the tenancy on September 30, 2015
- b. An order to recover the cost of the filing fee

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. The parties acknowledged they had received the documents of the other party.

I find that the Application for Dispute Resolution/Notice of Hearing was personally served on the tenant on October 3, 2015. With respect to each of the applicants' claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to an Order for Possession?
- b. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence

The tenancy started on May 22, 2006. The present rent is \$685 per month payable in advance on the 28th day of the previous month. The tenant paid a security deposit of \$300 at the start of the tenancy.

At the end of August the tenant gave the landlord written notice that she was ending the tenancy and vacating the rental unit on September 30, 2015. The file does not contain a copy of that notice. However, the landlord testified they provided the original to the Residential Tenancy Branch. The agent for the tenant acknowledged she had seen a copy of the Notice and does not dispute the tenant gave that notice..

The landlords and the agent for the tenant both testified the tenant gave the notice because she is angry with the upstairs tenants. This problem continues and the tenant often expresses that she is angry with them. .

The agent testified she is a friend of the tenant who visits her on a regular basis and who assist her with grocery shopping and going to the bank. However, she is unable to assist her finding another place to live. The agent testified as follows:

- The tenant suffers from Alzheimer's disease and dementia.
- She is a danger to herself and others in the rental property. They have disconnected the stove and fireplace. Despite the tenant promises not to smoke in the rental unit she smokes up to two packages a day.
- She has talked to the Ministry case worker about placing the tenant in a care facility where she can be properly cared for but that the case worker has been unable to find other accommodation.

The landlords testified they do not know what to do. They are very concerned about the safety and condition of the tenant and other occupants in the rental property. They accepted the Notice given by the tenant and started the process of finding another tenant. The tenant has paid the rent when due and they have given her a receipt that it was accepted for "use and occupation only." They seek an Order for Possession for the end of December. However, they stated that if absolutely necessary they would be prepared to allow the tenant to remain for a short period longer on a use and occupation basis if it would help the authorities find a room at an appropriate care facilities that could care for the tenant.

Analysis - Order of Possession:

I determined the landlord was entitled to an Order for Possession. The Tenant(s) gave the landlord a notice in writing that she wanted to vacate the rental unit. The landlord and the agent for the tenant explained that the tenant had a proper reason for giving the notice (she was upset about the noise coming from upstairs tenant). This problem has not abated. The landlord relied on the Notice in attempting to find another tenant. On October 2, 2015 after it was apparent the tenant was not leaving they filed an Application for Dispute Resolution. The landlords do not want to reinstate the tenancy

as the tenant in her present condition is a serious safety risk for the landlord and the other tenants in the rental property. Accordingly, I granted the landlord an Order for Possession effective December 31, 2015. I further order that the tenant pay to the landlords the sum of \$50 for the cost of the filing fee.

I urge the landlord to give a copy of this decision and order the tenant's case worker as soon as possible and to attempt to work out an arrangement so that the tenant can be placed in a facility that can give her proper care. I would encourage the landlords to work with the case worker to facilitate a move to a proper care facility.

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord 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: December 02, 2015

Residential Tenancy Branch

