



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNR, CNL, RR, FF

Introduction

This hearing dealt with two applications, both made by the tenant, pursuant to the *Residential Tenancy Act*. . The first application was for an order to set aside a notice to end tenancy for non-payment of rent and for the recovery of the filing fee.

The second application was for an order to set aside a notice to end tenancy for landlord's use of property, for a rent reduction and for the recovery of the filing fee. Both parties attended the hearing and had opportunity to be heard.

The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

During the hearing the tenant withdrew his application for a rent reduction.

Issue to be Decided

Does the landlord have grounds to end this tenancy?

Background and Evidence

The tenancy began in December 2013. The current monthly rent as per the written contract is \$1,200.00 per month due on the first of each month. The landlord stated that for the past year the tenant has paid \$900.00 as rent. The tenant replied that because the rental unit required maintenance he made a deduction of \$300.00 per month and the landlord has been accepting this amount of rent for the past year.

On October 15, 2015, the landlord sent a note to the tenant reminding him that rent was \$1,200.00, effective November 01, 2015. The tenant continued to pay rent in the amount of \$900.00. On January 01, 2016, the tenant paid his rent in the amount of \$900.00. On that same day, the landlord served the tenant with a ten day notice to end tenancy for non-payment of rent. The tenant disputed the notice in a timely manner.

Also on January 01, 2016 the landlord served the tenant with a 30 day notice to end tenancy for landlord's use of property with an effective date of February 29, 2016.

Analysis

I will deal with the tenant's applications separately.

First application

On January 05, 2016, the tenant made this application to dispute the notice to end tenancy for non-payment of rent dated January 01, 2016. The tenant had already paid rent in the amount of \$900.00. Since rent is due on the first of each month, the landlord served the notice prematurely. Therefore I set aside the notice to end tenancy. Since the notice is set aside, I grant the tenant the recovery of the filing fee of \$50.00. The tenant may make a one-time deduction of \$50.00 from a future rent.

Second application

The tenant made this application to dispute a notice to end tenancy for landlord's use of property. The reasons for the notice were discussed at length. During the hearing the parties engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Pursuant to Section 63 of the *Residential Tenancy Act*, the Arbitrator may assist the parties settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order.

During this hearing, the parties reached an agreement to settle their dispute. Both parties agreed to the following terms:

1. The tenant agreed to move out on or before 1:00pm on September 01, 2016.
2. The landlord agreed to allow the tenancy to continue until September 01, 2016
3. An order of possession will be granted in the favour of the landlord effective September 01, 2016
4. The tenant agreed to pay rent in the amount of \$1,300.00 on the first of each month effective March 01, 2016
5. The landlord agreed to accept rent in the amount of \$1,300.00 on the first of each month

6. The landlord agreed to allow the tenant to live rent free for the last month of tenancy
7. The tenant agreed to drop all monetary claims against the landlord and agreed not to make any additional monetary claims against the landlord
8. The landlord agreed to drop all monetary claims against the tenant and agreed not to make any additional monetary claims against the tenant.
9. The parties agreed to exercise any additional goodwill and spirit of cooperation necessary in regard to the above undertakings, which might be required to achieve a positive end to this landlord – tenant relationship.
10. Both parties stated that they understood and agreed that these particulars comprise the **full and final settlement** of all aspects of this dispute for both parties.

Conclusion

The notice to end tenancy for non-payment of rent is set aside and the tenant may make a one-time deduction of \$50.00 from a future rent.

Pursuant to the above agreement, I grant the landlord an order of possession effective on September 01, 2016. 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.

As the second application by the tenant was resolved by mutual agreement and not based on the merits of the case, I decline the tenant's request to recover the filing fee paid for this application

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: February 17, 2016

Residential Tenancy Branch