



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: DRI, CNL, MNDC, ERP, RP, FF

Introduction

This hearing was scheduled in response to an application by the tenants to dispute a rent increase / cancellation of a notice to end tenancy for landlord's use of property / a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / an order instructing the landlord to make emergency repairs for health or safety reasons / an order instructing the landlord to make repairs to the unit, site or property / and recovery of the filing fee.

Both parties attended and gave affirmed testimony.

Issue(s) to be Decided

Whether the tenants are entitled to any of the above under the Act, Regulation or tenancy agreement.

Background and Evidence

The unit which is the subject of this dispute is located in the basement portion of a house. The upstairs portion of the house is rented to others.

There is an incomplete copy of a written tenancy agreement in evidence, however, the parties agree that tenancy began on May 01, 2010. Monthly rent is due and payable in advance on the first day of each month, and a security deposit of \$750.00 was collected.

At the start of tenancy rent was \$750.00, and the tenants were also responsible for paying 30% of the house utilities. Later, the parties agreed that rent would include utilities and incrementally, rent was subsequently increased to \$810.00, \$840.00 and \$865.00. The current monthly rent is \$872.00 and includes utilities. It is noted that copies of the notices of rent increase submitted in evidence take the form of manually written letters issued by the landlord.

The landlord issued a notice to end tenancy for landlord's use of property. The notice was personally served on or about January 30, 2016. A copy of the notice was submitted in evidence. It is noted that the notice document is out of date, is unsigned by the landlord, and is undated. The date shown on the notice by when the tenants must vacate the unit is March 31, 2016. The reason identified on the notice in support of its issuance is as follows:

The landlord family (owner) intends to occupy the residential premises.

The tenants filed an application to dispute the notice on February 01, 2016. In addition to disputing the notice, the tenants have made a number of miscellaneous claims in their application, pursuant to which they seek particular orders in addition to certain compensation.

During the hearing the parties undertook to resolve the dispute.

Analysis

Section 63 of the Act addresses the **Opportunity to settle dispute**, and provides that the parties may attempt to settle the dispute during a hearing. Pursuant to this provision, discussion led to a resolution and it was specifically agreed as follows:

RECORD OF SETTLEMENT

- that the tenants will vacate the unit by no later than **May 31, 2016**, and that an **order of possession** will be issued in favour of the landlord to that effect;
- that **no rent** will be due and payable for the month of **May 2016**
- that the tenants will withhold **\$228.00** from rent due for **April 2016**, leaving **\$644.00** due and payable on April 01, 2016 (\$872.00 - \$228.00);
- that the above withholding of rent satisfies the tenants' application for certain compensation, including recovery of the filing fee;
- that all other aspects of the application are withdrawn;
- that the above particulars comprise **full and final settlement** of all aspects of the dispute for both parties, which arise out of this tenancy.

As the end of tenancy nears, the attention of the parties is drawn to section 38 of the Act which addresses **Return of security deposit and pet damage deposit**.

Conclusion

The dispute is settled pursuant to the **RECORD OF SETTLEMENT**.

I hereby issue an **order of possession** in favour of the landlord effective not later than **May 31, 2016**. This order must be served on the tenants. Should the tenants 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.

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: March 16, 2016

Residential Tenancy Branch

