



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNL MNDC OLC RP RPP LRE RR FF O

Introduction

The tenant applied under the *Residential Tenancy Act* (the “*Act*”) to cancel a 2 Month Notice to End Tenancy for Landlord’s Use of Property (the “2 Month Notice”), for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, for an order directing the landlord to comply with the *Act*, regulation or tenancy agreement, for repairs to the unit, site or property, to return the tenant’s personal property, for an order to suspend or set conditions on the landlord’s right to enter the rental unit, for a rent reduction, to recover the cost of the filing fee and “other” although no other remedies under the *Act* are described other than what is listed above.

The tenant, three landlords, and a support person for the tenant attended the teleconference hearing. At the start of the hearing I introduced myself and the participants and the hearing process. The parties were provided with the opportunity to submit documentary evidence prior to this hearing, to present affirmed oral testimony evidence and to make submissions to me.

The parties confirmed that they received documentary evidence from the other party and that they had the opportunity to review that documentary evidence prior to the hearing. I find the parties were sufficient served under the *Act*, as a result.

Preliminary and Procedural Matters

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure authorizes me to dismiss unrelated disputes contained in a single application. In these circumstances the tenant indicated more than one matters of dispute on the Application for Dispute Resolution, the most urgent of which is the application to set aside the Notice to End Tenancy. I find that not all the claims on this Application for Dispute Resolution are sufficiently related to be determined during this proceeding. I will, therefore, only consider the tenant’s request to set aside the 2 Month Notice and to recover the cost of

the filing fee at this proceeding. The balance of the tenant's application which includes a monetary claim for \$1,452.78 is dismissed, **with leave to re-apply**.

Issues to be Decided

- Should the 2 Month Notice to End Tenancy for Landlord's Use of Property be cancelled?
- Is the tenant entitled to the recovery of the cost of the filing fee under the *Act*?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A month to month tenancy began on August 2, 2014. Monthly rent in the amount of \$1,700.00 is due on the first day of each month. A security deposit of \$450.00 and a pet damage deposit of \$150.00 was paid by the tenant at the start of the tenancy.

The tenant confirmed that she received the 2 Month Notice dated January 22, 2016 on January 27, 2016. The effective vacancy date on the 2 Month Notice is listed as April 1, 2016. The tenant disputed the 2 Month Notice on February 11, 2016 which is one day outside of the time limitation under the *Act* of 15 days.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

2 Month Notice to End Tenancy for Landlord's Use of Property – As the tenant disputed the 2 Month Notice one day outside of the 15 day time limit set out in section 49 of the *Act*, the tenant is conclusively presumed to have accepted the 2 Month Notice. The effective date of the 2 Month Notice is April 1, 2016. As a result, **I dismiss** the tenant's application to cancel the 2 Month Notice and **I uphold** the 2 Month Notice. The tenancy will end on April 1, 2016. Section 55 of the *Act* states:

Order of possession for the landlord

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, **the director must grant to the landlord an order of possession of the rental unit if**

(a) **the landlord's notice to end tenancy complies with section 52** *[form and content of notice to end tenancy]*, **and**

(b) **the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.**

[my emphasis added]

Given the above, **I grant** the landlord an order of possession **effective April 1, 2016** which must be served on the tenant.

Conclusion

A portion of the tenant's application was severed in accordance with section 2.3 of the Rules of Procedure. The tenant's application to cancel the 2 Month Notice and to recover the cost of the filing fee is dismissed. I uphold the 2 Month Notice issued by the landlord dated January 22, 2016 with an effective vacancy date of April 1, 2016.

I find the tenancy ends on the effective vacancy date listed on the 2 Month Notice which is April 1, 2016. The tenant must vacate the rental unit by 1:00 p.m. April 1, 2016. The landlord is granted an order of possession effective April 1, 2016. The landlord serve the tenant with the order of possession and the order of possession may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 31, 2016

Residential Tenancy Branch