



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding FRASER MARINE DRIVE HOLDINGS INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, MND, MNSD, FF; CNC

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an Order of Possession for cause, pursuant to section 55;
- a monetary order for damage to the rental unit, pursuant to section 67;
- authorization to retain the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant, pursuant to section 72.

This hearing also dealt with the tenant's cross-application pursuant to the *Act* for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause, dated February 5, 2016 ("1 Month Notice"), pursuant to section 47.

The landlord's agent, VP ("landlord") and the tenant and his advocate, SW (collectively "tenant") attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. The landlord confirmed that she is the property manager for the landlord company named in this application and that she had authority to represent it as an agent at this hearing. The tenant confirmed that his advocate had authority to speak on his behalf at this hearing. This hearing lasted approximately 64 minutes in order to allow both parties to fully negotiate a settlement of this claim.

Both parties confirmed receipt of the other party's application for dispute resolution hearing package. In accordance with sections 89 and 90 of the *Act*, I find that both parties were duly served with the other party's application.

The tenant confirmed receipt of the landlord's 1 Month Notice. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was duly served with the landlord's 1 Month Notice.

Background and Evidence

Both parties agreed to the following facts. This tenancy began on November 27, 2009. Monthly rent in the amount of \$781.49 is payable on the first day of each month. A security deposit of \$362.50 was paid by the tenant and the landlord continues to retain this deposit. The tenant continues to reside in the rental unit. A copy of the written tenancy agreement was provided for this hearing.

The tenant seeks to cancel the landlord's 1 Month Notice, which has an effective move-out date of March 31, 2016, which was issued for the following reasons:

- *Tenant or a person permitted on the property by the tenant has:*
 - *significantly interfered with or unreasonably disturbed another occupant or the landlord;*
 - *seriously jeopardized the health or safety or lawful right of another occupant or the landlord;*
 - *put the landlord's property at significant risk;*
- *Tenant has caused extraordinary damage to the unit/site or property/park.*

The landlord seeks a monetary order of \$3,440.95 for water damage in the rental unit and surrounding units in the rental building, that the landlord said was caused by the tenant. The landlord also seeks to recover the \$100.00 filing fee paid for its Application.

Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to 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 the hearing the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding settlement of all issues currently under dispute at this time:

1. Both parties agreed that this tenancy will end by 1:00 p.m. on May 31, 2016, by which time the tenant and any other occupants will have vacated the rental unit;
2. Both parties agreed that the landlord's 1 Month Notice, dated February 5, 2016, is cancelled and of no force of effect;
3. The tenant agreed to keep in weekly contact with his housing worker at "CMH" ;
4. The tenant agreed to allow the landlord to speak to his CMH housing worker on a weekly basis. During this hearing, the tenant provided the landlord with the contact name and information of his CMH housing worker;

5. The tenant agreed to pay the landlord \$555.98 by way of cash or money order by April 14, 2016;
6. The landlord agreed to bear the cost of the \$50.00 filing fee paid for the landlord's application;
7. Both parties agreed that this settlement agreement constitutes a final and binding resolution of both parties' applications at this hearing.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties. Both parties testified at the hearing that they understood and agreed to the above terms, free of any duress or coercion. Both parties testified that they understood and agreed that the above terms are legal, final and binding and enforceable, which settle all aspects of this dispute.

Conclusion

To give effect to the settlement reached between the parties and as advised to both parties during the hearing, I issue the attached Order of Possession to be used by the landlord **only** if the tenant and any other occupants fail to vacate the rental premises by 1:00 p.m. on May 31, 2016. The landlord is provided with this Order in the above terms and the tenant must be served with this Order in the event that the tenant and any other occupants fail to vacate the rental premises by 1:00 p.m. on May 31, 2016. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

In order to implement the above settlement reached between the parties, and as advised to both parties during the hearing, I issue a monetary Order in the landlord's favour in the amount of \$555.98. I deliver this Order to the landlord in support of the above agreement for use **only** in the event that the tenant does not abide by condition #5 of the above agreement. The landlord is provided with this Order in the above terms and the tenant must be served with a copy of this Order as soon as possible after the tenant does not abide by condition #5 of the above agreement. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court. The landlord's 1 Month Notice, dated February 5, 2016 is cancelled and of no force or effect.

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: April 01, 2016

Residential Tenancy Branch

