



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPC, OPB, FF

Introduction

This hearing was scheduled in response to an application by the landlords for an order of possession for cause / an order of possession for breach of an agreement with the landlord / and recovery of the filing fee. Both parties attended and gave affirmed testimony.

Issue(s) to be Decided

Whether the landlords are entitled to 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 2 storey house. The upstairs portion of the house is occupied by the landlords.

Pursuant to a written tenancy agreement, a copy of which is not in evidence, the tenancy began on August 15, 2014. Monthly rent of \$1,650.00 plus utilities of \$150.00 (total: \$1,800.00) is due and payable in advance on the 15th day of each month. A security deposit of \$625.00 was collected.

Pursuant to section 47 of the Act which addresses **Landlord's notice: cause**, the landlords issued a 1 month notice to end tenancy dated February 14, 2016. The notice was personally served on that same date. A copy of the notice was submitted in evidence. Reasons identified on the notice in support of its issuance are as follows:

Tenant is repeatedly late paying rent

Tenant or a person permitted on the property by the tenant has:

- seriously jeopardized the health or safety or lawful right of another occupant or the landlord

- put the landlord's property at significant risk

Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so

Tenant has assigned or sublet the rental unit / site without landlord's written consent

The tenants did not file an application to dispute the notice, and they continue to reside in the unit. The landlords filed their application for dispute resolution on March 04, 2016. During the hearing the parties undertook to resolve the principal aspect of the dispute which concerns ending the tenancy.

Analysis

Section 63 of the Act addresses the **Opportunity to settle dispute**, and provides that the parties may attempt to settle all or a portion of their dispute during a hearing. Pursuant to this provision, discussion led to a resolution of the dispute around ending the tenancy. Specifically, it was agreed as follows:

RECORD OF SETTLEMENT

- that the tenants will vacate the unit by not later than **May 15, 2016**, and that an **order of possession** will be issued in favour of the landlords to that effect.

Following from all of the above, I find that the landlords have established entitlement to recovery of the **\$100.00** filing fee, and I order that the landlords may recover this amount by way of withholding it from the security deposit at the end of tenancy.

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

Conclusion

I hereby issue an **order of possession** in favour of the landlords effective not later than **May 15, 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.

I order that the landlords may withhold **\$100.00** from the security deposit at the end of tenancy in order to recover the filing fee 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: April 04, 2016

Residential Tenancy Branch

