



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ASSOCIA BRITISH COLUMBIA, INC
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

For the landlord – OPC, FF

For the tenants – MT, CNC, OLC, O

Introduction

This hearing was convened by way of conference call in response to both parties' applications for Dispute Resolution. The landlord applied for an Order of Possession for cause; and to recover the filing fee from the tenants for the cost of this application.

The tenants applied for more time to file an application to cancel a Notice to End Tenancy; for an Order to cancel a One Month Notice to End Tenancy for Cause; for an Order for the landlord to comply with the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; and other issues.

At the outset of the hearing the landlord advised that the tenants are no longer residing in the rental unit and vacated on August 15, 2016. Therefore, the landlord withdraws their application for an Order of Possession.

The hearing went ahead as scheduled; however, the tenants failed to dial into the conference call during the call. Therefore, no hearing took place regarding the tenants' application as the tenants have failed to present the merits of their application. Consequently, the tenants' application is dismissed without leave to reapply.

Service of the hearing documents, by the landlord to the tenants, was done in accordance with section 89 of the *Act*, served by registered mail on July 12, 2016. Canada Post tracking numbers were provided by the landlord in evidence. The tenants were deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlord's agent appeared, and requested the recovery of the filing fee as the tenants have vacated the rental unit and have not appeared for this scheduled hearing.

Background and Evidence

The landlord's agent testified that this tenancy originally started on April 01, 2012; however, due to changes in the tenants residing in the unit a new tenancy agreement was entered into on March 01, 2016. Rent for this unit was \$865.00 per month including \$15.00 for parking. The tenants paid a security deposit of \$425.00 and a pet deposit of \$425.00 on March 28, 2012.

The landlord's agent testified that the tenants were served a One Month Notice to End Tenancy for Cause by posting it to their door on May 26, 2016. This Notice had an effective date of June 30, 2016 and provided the following reasons to end the tenancy:

- 1) *The tenant or a person permitted on the residential property by the tenant has*
 - (i) *Seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant,*
- 2) *the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has*
 - (i) *Has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or*
 - (ii) *Jeopardized a lawful right or interest of another occupant or the landlord*
- 3) *The tenant has breached a material term of the tenancy agreement which was not corrected within a reasonable time after written notice to do so.*

The landlord testified that the tenants did not vacate the rental unit on June 30, 2016 but did vacate on August 15, 2016.

Analysis

In this analysis I am only dealing with the landlords request to recover the filing fee as the tenancy has since ended. At the time the application was filed the tenants had not vacated the rental unit or filed an application to dispute the One Month Notice served upon them on May 26, 2016. The tenants had 10 days to file their application to dispute that Notice and the tenants did not file their application until July 15, 2016

The tenants did not vacate the rental unit by the date shown on page one of the One Month Notice and have not appeared for the hearing today. Consequently, I find the landlord is entitled to recover the filing fee of \$100.00 from the tenants for the cost of this application pursuant to s. 72(1) of the *Act*.

Conclusion

I find that the landlord is entitled to be reimbursed for the **\$100.00** cost of filing this application. I order that the landlord retain this amount from the security deposit of \$425.00 leaving a balance \$325.00 for the security deposit and \$425.00 for the pet deposit. These deposits must either be returned to the tenants or otherwise dealt with in compliance with section 38 of the *Act*.

The tenants' application is dismissed in its entirety, without leave to reapply.

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: August 24, 2016

Residential Tenancy Branch