



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding REMAX MANAGEMENT SOLUTIONS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNC CNR MNDC RP RR FF

Introduction

The tenant applied under the *Residential Tenancy Act* (the “*Act*”) to cancel two 1 Month Notices to End Tenancy for Cause dated August 31, 2016 and July 20, 2016, (the “1 Month Notices”), to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated August 31, 2016 (the “10 Day Notice”), for a monetary order in the amount of \$3,600.00 for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, for an order compelling the landlord to make regular repairs to the rental unit, site or property, for a rent reduction for repairs, services or facilities agreed upon but not provided, and to recover the cost of the filing fee.

The tenant and an agent for the landlord (the “agent”) attended the teleconference hearing. At the start of the hearing I introduced myself and the participants. The parties had the dispute resolution process explained to them and 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. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Neither party raised any concerns about the service of documentary evidence, other than what the tenant referred to as “late evidence” which was not contained on the file before me. As a result, the tenant was advised that I could not consider the “late evidence” as it was not on the file before me and would be excluded in any event as the evidence was not submitted in accordance with the Rules of Procedure.

Preliminary and Procedural Matter

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure authorizes me to dismiss unrelated disputes contained in a single application. In this circumstance the

tenant indicated several matters of dispute on the Application for Dispute Resolution, the most urgent of which is the application to set aside the Notices 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 three Notices to End Tenancy and the tenant's application to recover the cost of the filing fee at this proceeding. The balance of the tenant's application is dismissed, with leave to re-apply

Issues to be Decided

- Should the 1 Month Notices to End Tenancy for Cause be cancelled?
- Should the 10 Day Notice be cancelled?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A fixed term tenancy agreement began on February 16, 2016 and is scheduled to end on February 28, 2017. Monthly rent in the amount of \$1,400.00 is due on the first day of each month. The tenant paid a security deposit of \$700.00 and a pet damage deposit of \$700.00.

The parties agreed that the tenant was served with three different Notices to End Tenancy comprised of one 10 Day Notice and two One Month Notices. The tenant disputed each of the Notices to End Tenancy within the timelines provided under the *Act*.

Regarding the 1 Month Notice dated August 31, 2016, the effective date is listed as September 30, 2016 and lists one cause which is that the tenant is repeatedly late paying rent. The tenant affirmed that May 2016 rent was not paid in full until May 4, 2016. The tenant also affirmed that June 2016 rent was not paid until June 3, 2016. Regarding July 2016 rent, the landlord affirmed that he did not receive rent for July 2016 until July 5, 2016. The tenant stated that he paid rent through a "Rent Moola" website on time however there was no documentary evidence before me to support the tenant's testimony. The landlord stated that payments are received almost immediately through the "Rent Moola" website and that July 2016 rent was not received until July 5, 2016.

Analysis

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

1 Month Notice to End Tenancy for Cause dated August 31, 2016 – Based on the evidence before me, I am satisfied that the tenant was late three times in 2016 which according to Residential Tenancy Branch Policy Guideline #38 Repeated Late Payment of Rent, three late rent payments are the minimum number required to justify a 1 Month Notice for repeated late payment of rent. Therefore, due to the tenant providing insufficient evidence that a rent payment was paid on time for July 2016, and with the tenant admitting to paying May 2016 and June 2016 rent late, **I dismiss** the tenant's Application and **I uphold** the 1 Month Notice dated August 31, 2016. Therefore, I find it is not necessary to consider the 10 Day Notice or the other 1 Month Notice as the tenancy will end on September 30, 2016, the effective vacancy date of the August 31, 2016 1 Month Notice.

Section 55 of the *Act* applies and 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 and taking into account the 1 Month Notice dated August 31, 2016 complies with section 52 of the *Act*, **I grant** the landlord an order of possession effective **September 30, 2016 at 1:00 p.m.** which must be served on the tenant.

As the tenant's application did not have merit, **I do not grant** the tenant the recovery of the filing fee.

Conclusion

The tenant's application that proceeded at this hearing is dismissed. The 1 Month Notice dated August 31, 2016 issued by the landlord has been upheld.

The landlord has been granted an order of possession effective September 30, 2016 at 1:00 p.m. which is the date and time the tenancy will end. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

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: September 22, 2016

Residential Tenancy Branch