



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OPC, O

Introduction

This hearing was scheduled to deal with cross applications. The tenant applied to cancel a 1 Month Notice to End Tenancy for Cause and the landlords applied for an Order of Possession for cause. Both parties appeared or were represented at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

At the outset of the hearing I began to hear from the tenant as I determined her Application was likely filed more than 10 days after she had received the 1 Month Notice. I had confirmed with the tenant that she had received the 1 Month Notice on July 27, 2016. Accordingly, the deadline for filing an Application to dispute it fell on August 6, 2016. Under the Rules of Procedure, an Application for Dispute Resolution is considered filed when the filing fee has been paid or the documents for a fee waiver have been received. An Application for Fee Waiver was received from the tenant on August 9, 2016 along with some fee waiver documentation and further fee waiver documentation was received August 11, 2016. The Act permits me to extend a filing deadline in “extraordinary circumstances”. The tenant explained that she had been considering a mutual agreement to end tenancy with the landlord before she decided to file but that did not fully understand the dispute process or filing deadlines. I found the tenant’s reasons did not amount to “extraordinary circumstances” and I was not prepared to extend the filing deadline.

The tenant indicated that she sent an e-transfer to the landlords for rent for October 2016 and that she and the other occupants were agreeable to moving out. Accordingly, I continued to hear from the parties with a view to resolving the matter by mutual agreement. The parties were able to reach a mutual agreement that I have recorded by way of this decision and the Order that accompanies it.

Issue(s) to be Decided

What are the terms of the mutual agreement?

Background and Evidence

During the hearing the parties mutually agreed to the following terms:

1. The tenancy shall continue until 1:00 p.m. on October 31, 2016 at which point the tenant shall return vacant possession of the rental unit to the landlords.
2. The landlords will accept payment of rent for the month of October 2016 that the tenant has sent to them by e-transfer.
3. The tenant will pay the landlords \$136.00 for the current outstanding hydro bill within one week's time. The tenant remains responsible to satisfy any hydro charge that accrues after the invoice date of the bill referred to above up until the date the tenancy ends.

During the hearing, the parties discussed and were informed of their respective obligations under the Act, such as: a tenant's obligation to leave a rental unit "reasonably clean" at the end of the tenancy, a tenant's responsibility to repair damage they or persons they permitted on the property caused during the tenancy, a tenant's responsibility to return all keys or means of access to the landlord at the end of the tenancy, participating in the move-out inspection together, the landlord's obligation to schedule the date and time for the move-out inspection, and the landlord's obligation to administer any security deposit and/or pet damage deposit paid by the tenant in accordance with the Act, even if the deposit was paid to the former owner of the property.

Analysis

Pursuant to section 63 of the Act, I have the authority to assist parties in reaching a settlement agreement during the hearing and to record the agreement in the form of a decision or order.

I have accepted the mutual agreement reached by the parties during this hearing and make the terms an Order to be binding upon both parties.

In recognition of the mutual agreement I provide the landlord's with an Order of Possession that is effective at 1:00 p.m. on October 31, 2016.

Should the parties have any questions as to their respective rights and obligations under the Act, I encourage the parties to refer to our website at: www.gov.bc.ca/landlordtenant or contact an Information Officer.

Conclusion

The parties reached a mutual agreement during the hearing that I have recorded in this decision. In recognition of the mutual agreement, the landlords have been provided an Order of Possession effective at 1:00 p.m. on October 31, 2016.

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: October 06, 2016

Residential Tenancy Branch

