



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI, CNL, MNDC, OPT, RR

Introduction

The Application for Dispute Resolution filed by the Tenant seeks the following:

- a. An order to dispute an additional rent increase
- b. An order disputing a 2 month Notice to End Tenancy dated October 18, 2016
- c. An order for a monetary order in the sum of \$22,876
- d. An order for the reduction of rent for repairs, services, or facilities agreed upon but not provided

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. The hearing was adjourned from December 15, 2016 to January 19, 2017 as there was not sufficient time to hear all of the evidence.

I find that the 2 month Notice to End Tenancy was served on the Tenant by posting on October 18, 2016. Further I find that the Application for Dispute Resolution/Notice of Hearing was personally served on landlord on October 29, 2016. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling the 2 month day Notice to End Tenancy dated October 18, 2016?
- b. Whether the tenant is entitled to an order disputing an additional rent increase?
- c. Whether the tenant is entitled to a monetary order and if so how much?
- d. Whether the tenant is entitled to an order for the abatement of past or future rent and if so how much?

Background and Evidence

The tenant entered into a tenancy agreement in writing with the previous owner in 2012. The rent was originally \$1400 per month. The tenant paid a security deposit of 4700 at the start of the tenancy.

The previous owner sold the rental property to the respondent with completion in the early summer of 2015. A number of disputes have arisen between the parties. The Tenant disputes the 2 month Notice to End Tenancy. The tenant submits the previous owner rent the entire property to him. The respondent disputes this submitting the rental property included only the fenced area around the house. The tenant seeks compensation alleging the landlord failed to make repairs in a timely fashion and for trespass and breach of the covenant of quiet enjoyment as the landlord uses the property for short term stays for long haul truckers. The landlord disputes most of the tenant's claims.

Analysis

The 2 month Notice to End Tenancy sets out the following grounds:

- The landlord intends to convert the rental unit for use by a caretaker, manager or superintendent of the residential property

Settlement:

At the end of the hearing the parties reached a settlement and they asked that I record the settlement pursuant to section 63(2) of the Residential Tenancy Act as follows:

- a. The parties mutually agree to end the tenancy on April 15, 2017.
- b. The parties request the arbitrator grant an Order of Possession for April 15, 2017.
- c. The tenant shall be entitled to stay in the rental unit rent free for February 2017, March 2017 and April 1, 2017 to April 15, 2017.
- d. The landlord shall pay the tenant compensation in the sum of \$3000 on or before April 15, 2017.
- e. This above payment is in satisfaction of the Tenant's claims in this application and further includes the Tenant's claim for the equivalent of one month rent under section 51(1) of the Act
- f. The landlord shall use his best efforts to ensure the refrigerated trucks are not parked near the Tenant's residence.
- g. The landlord shall hire a furnace repair person to inspect the furnace and make any repairs that might be necessary within 2 weeks of the date of this agreement.

- h. The security deposit shall be dealt with in accordance with the provisions of the Residential Tenancy Act.

Order of Possession and Monetary Order:

As a result of the settlement I granted an Order of Possession effective April 15, 2017.

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

I further ordered that the Landlord shall pay to the Tenant the sum of \$3000 on or before April 15, 2017. All other claims in this application are dismissed without liberty to re-apply.

The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

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: January 19, 2017

Residential Tenancy Branch