



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, OPL, FF

Introduction

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

- a. An order to allow more time to make this application
- b. An order to cancel the two month Notice to End Tenancy dated April 4, 2016
- c. An order to recover the cost of the filing fee.

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

- a. An order of Possession
- b. An order to recover the cost of the filing fee

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. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the 2 month Notice to End Tenancy was personally served on the Tenant on March 14, 2017. Further I find that the Application for Dispute Resolution/Notice of Hearing was filed by each party was sufficiently served on the other.

I determined exceptional circumstances existed and I granted the tenant more time to file his application as he was hospitalized shortly after he was served with the 2 month Notice to End Tenancy and I proceeded with the hearing despite the fact he failed to file his application within 15 days as required by the Act. 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 two month Notice to End Tenancy dated March 25, 2017?
- b. Whether the tenant is entitled to recover the cost of the filing fee?
- c. Whether the landlord is entitled to an Order of Possession?
- d. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence

The tenancy began on March 1, 2017. The tenancy agreement provided that the tenant(s) would pay rent of \$600 per month payable in advance on the first day of each month. The tenant(s) paid a security deposit of \$300 at the start of the tenancy.

The landlord testified he wishes to have his daughter move in. The tenant testified he has recently undergone a major operation and cannot put weight on his leg for several months.

Grounds for Termination:

The Notice to End Tenancy relies on section 49 of the Residential Tenancy Act. That section provides as follows:

- The rental unit will be occupied by the landlord or the landlord's spouse or a close family member (father, mother, or child) of the landlord or the landlord's spouse

Settlement:

During the hearing the parties reached a settlement and they asked that I record the settlement pursuant to section 63 as follows:

- a. The parties mutually agree to end the tenancy on August 31, 2017.
- b. The parties request the arbitrator issue an Order of Possession for August 31, 2017.
- c. The parties acknowledge that as the landlord has issued a 2 month Notice to End Tenancy, the tenant is entitled to the equivalent of one month rent free as provided in section 51(1) of the Residential Tenancy Act.

Determination and Orders:

As a result of the settlement I granted an Order of Possession effective August 31, 2017. All other claims are dismissed.

Order for Possession:

I granted the landlord an Order for Possession effective August 31, 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.

This decision is final and binding on the parties.

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: May 15, 2017

Residential Tenancy Branch