



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, O, OPN, OPL

Introduction

The Application for Dispute Resolution filed by the landlord seeks an Order of Possession pursuant to a 2 month Notice to End Tenancy and the Tenant's Notice to End tenancy.

The Application for Dispute Resolution filed by the Tenant seeks an order to cancel the 2 month Notice to End Tenancy that set the end of tenancy for June 30, 2017.

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.

Neither party presented documentary evidence to the Branch. This is an unusual case. The landlord testified she served a 2 month Notice to End Tenancy on the Tenant on April 30, 2017. The Tenant acknowledged receiving the Notice. She testified that she was so upset that she immediately gave the Notice back to her father-in-law and went back into the house. The tenant testified she could not later find the Notice. The landlord testified it was not returned to her. In the circumstances I determined it was appropriate to give the landlord 8 hours to fax to the Branch her copy of the 2 month Notice to End Tenancy.

The landlord subsequently now provided the Branch with a copy of the 2 month Notice to End Tenancy. I find that the 2 month Notice to End Tenancy was personally served on the Tenant on April 30, 2017. Further I find that the Application for Dispute Resolution/Notice of Hearing filed by each party was sufficiently served on the other.

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the Tenant is entitled to an Order to cancel the 2 month Notice to End Tenancy
- b. Whether the landlord is entitled to an Order for Possession?

Background and Evidence

The tenant entered into a tenancy agreement with the previous owner in February 2015. The present landlords purchased the property and became the landlord on September 15, 2016. The rent is \$1100 per month payable in advance on the first day of each month. The tenant paid a security deposit of \$550 and a pet damage deposit of \$550 at the start of the tenancy.

The landlord testified she needs to regain possession of the rental unit for her and her two young school age children. The tenant testified she is looking for alternative accommodation but is finding it difficult. Her common law husband is incarcerated and she is not working. He is to be released at the end of August.

The parties acknowledge the tenant has received the benefit of the equivalent of one month rent free in consideration of the landlord's obligations under section 51(1) of the Act.

Settlement:

During the hearing the parties reached a settlement and they asked that I record the settlement pursuant to section 63(2) as follows:

- a. The parties mutually agree to end the tenancy on August 31, 2017 and the tenant must vacate the rental unit by that time.
- b. The parties request that the arbitrator issue an Order of Possession for August 31, 2017.
- c. The tenant acknowledges she is responsible to pay the rent and utilities for August 2017.
- d. This settlement is conditional on the landlord providing a copy of the 2 month Notice to End Tenancy that was served on the Tenant on April 30, 2017 to the Residential Tenancy Branch

Landlord's Application - Analysis - Order of Possession:

The landlord provided a copy of the 2 month Notice to End Tenant. It is in the approved form. I determined the landlord was entitled to an Order for Possession. The 2 month Notice to End Tenancy setting the end of tenancy for June 30, 2017 was personally served on the Tenant on April 30, 2017. The tenant failed to file an Application to Dispute the Notice to End Tenancy within 15 days of receiving it. As a result she is conclusively deemed to have accepted the end of the tenancy. The parties mutually agree to end the tenancy for August 31, 2017. Accordingly, I granted the landlord an Order for Possession effective August 31, 2017. .

The application of the Tenant is dismissed without leave to re-apply.

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 both 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: July 26, 2017

Residential Tenancy Branch