



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

matter regarding PACIFIC QUOROM PROPERTIES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes O

Introduction

On August 17, 2017, the Tenant submitted an Application for Dispute Resolution seeking to cancel a mutual agreement to end tenancy.

The matter was set for a conference call hearing. The Landlord and Tenant appeared at the Hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence, orally and in written and documentary form, and 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.

Issue to be Decided

- Is the mutual agreement to end tenancy a valid agreement?

Background and Evidence

The Landlord and Tenant both testified that the tenancy began in March or April 2012 and is currently a month to month tenancy. Rent in the amount of \$650.00 is to be paid by the first day of each month. The Tenant paid the Landlord a \$325.00 security deposit.

The Tenant testified that she signed a mutual agreement to end tenancy under threat of legal action against herself. She submitted that she signed the mutual agreement under duress because she did not want to be part of any legal action.

The Tenant submitted that after she signed the agreement she looked into the matter further and discovered that there was no legal action being taken against her, but legal action was being considered against the owner of the rental unit by the strata council of the property.

The Tenant provided a copy of a Mutual Agreement to End a Tenancy that was signed by the parties on June 12, 2017, with an effective date of August 31, 2017.

The Tenant filed a dispute on August 17, 2017, and has not vacated the rental unit and is looking to remain as a Tenant.

In response to the Tenant's testimony, the Landlord testified that there have been issues with the Tenant and flooding in the rental unit. The Landlord contemplated issuing the Tenant a notice to end tenancy, but the parties agreed to end the tenancy with a mutual agreement, and agreed on a two month effective date to give the Tenant more time to find place to rent.

The Landlord submitted that she never told the Tenant that if she signed a mutual agreement to end the tenancy, the Landlord would not proceed with a claim against her; and she never mentioned a class action law suit.

The Landlord submitted that the Tenant started packing her belongings to move but she could not secure a place to rent, so the Tenant decided to stay in the rental unit. The Landlord stated that the Tenant sent an email stating she could not find a place to move.

The Landlord testified that she is not in agreement to cancel the mutual agreement to end tenancy.

The Landlord is seeking an order of possession.

The Tenant testified that she started packing but then spoke to management about the possible lawsuit and found out that she is not named. The Tenant provided documentary evidence regarding her conversation with a person from the building strata.

Analysis

Section 55 of the Act states that an Arbitrator must grant the Landlord an order of possession of the rental unit if the Landlord and Tenant have agreed in writing that the tenancy is ended.

The Residential Tenancy Branch Policy Guideline #11 Amendment and Withdrawal of Notices is intended to help the parties to an application understand issues that are likely to be relevant. The Guideline provides:

A landlord or tenant cannot unilaterally withdraw a Notice to End Tenancy. With the consent of the party to whom it is given, but only with his or her consent, a Notice to End Tenancy may be withdrawn or abandoned prior to its effective date.

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I do not accept the testimony of the Tenant that she signed the mutual agreement to end tenancy under duress. I find that she wanted to end the tenancy because she believed that she may benefit from agreeing to end the tenancy. There is insufficient evidence from the Tenant that the Landlord pressured her to sign the agreement. It appears the Tenant did not look further into the legal matters until August 11, 2017. I also note that the Tenant waited more than two months after signing the agreement to file a dispute of the agreement.

I find that the mutual agreement to end tenancy dated June 12, 2017, is a valid agreement.

The Landlord does not consent to cancel the mutual agreement and has requested an order of possession.

I grant the Landlord an order of possession effective at 1:00 pm on September 30, 2017.

Conclusion

The Tenant entered into a mutual agreement to end tenancy that requires the Tenant to vacate the rental unit on August 31, 2017.

I do not accept the Tenant's submission that the mutual agreement was signed under duress. The Tenant is expected to comply with the agreement to end the tenancy.

The Tenant's Application requesting to set aside the mutual agreement is dismissed.

I grant the Landlord an order of possession effective at 1:00 pm on September 30, 2017.

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: September 19, 2017

Residential Tenancy Branch