



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Decision Codes: CNC, MNDC FF, OPC, FF

Introduction

The Application for Dispute Resolution filed by the Tenant makes the following claims:

- a. An order to cancel a one month Notice to End Tenancy dated August 24, 2017.
- b. A monetary order in the sum of \$18,239.
- c. An order for a Tenant's Order of Possession
- d. An order to recover the cost of the filing fee.

The Application for Dispute Resolution filed 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. Both parties filed a several hundred pages in documentation. 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. At the end of the hearing the parties had extensive settlement discussion which resulted in a comprehensive agreement. Both parties presented a large number of documents.

I find that the Notice to End Tenancy was personally served on the Tenant by mailing, by registered mail to where the Tenants reside on August 24, 2017. Further I find that the Application for Dispute Resolution/Notice of Hearing filed by each party was sufficiently served on the other by mailing, by registered mail to where the other party resides or carried on business. With respect to each of the applicant's claims I find as follows:

Issues to be Decided

The issues to be decided are as follows:

- a. Whether the tenants are entitled to an order cancelling a one month Notice to End Tenancy dated August 24, 2017.
- b. Whether the tenants are entitled to a monetary order and if so how much?
- c. Whether the tenant is entitled to recover the cost of the filing fee?
- d. Whether the landlord is entitled to an Order of Possession?
- e. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence:

The tenants entered into a tenancy agreement with a previous landlord that provided that the tenancy would start on May 1, 2006. The present rent is \$1254 per month payable in advance on the first day of each month. The tenants paid a security deposit of \$475 at the start of the tenancy.

There has been an ongoing dispute between the parties for the last 3 years. The tenants testified the landlord failed to make repairs in a timely fashion even though requested on multiple occasions. The landlord disputes this testimony saying they have made repairs when requested and have follow all procedures under the Residential Tenancy Act. The rental unit was renovated in August and September. The landlord served a one month Notice to End Tenancy alleging the tenants have unreasonably disturbed the landlords and have breached a material term of the tenancy agreement because of the large number of e-mails and complaints they have made. The Tenants dispute the Notice to End Tenancy and the evidence presented by the landlord. They say that at all times their communication with the landlord has been respectful and non-threatening.

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) as follows:

- a. The parties agree that the Notice to End Tenancy dated August 24, 2017 shall be cancelled. The tenancy shall continue under the same terms and conditions as the tenancy agreement previously signed.
- b. The landlord agrees that they shall not base any future Notice(s) to End Tenancy on evidence and conduct of the Tenants to the date of this hearing.
- c. The tenants consent to the dismissal of their monetary claim with the exception of their claim for compensation for the loss of a parking spot. The tenants agree this is a full and final settlement of all monetary claims to the date of this hearing and they release and discharge the landlord from all monetary claims to the date

of the hearing with the exception of their claim for compensation for the loss of a parking spot.

- d. The parties were unable to resolve their dispute as to whether the Tenants are entitled to compensation for the loss of a parking spot and the Tenants have the right to file an Application for Arbitration to seeking compensation for the loss of the parking spot.

As a result of the settlement I order that the Notice to End Tenancy dated August 24, 2017 be cancelled. I further order that that, with the exception of the tenants' claim for compensation for the loss of a parking spot, the claims of the tenants for a monetary order up to the date of this hearing shall be dismissed without leave to re-apply. The Tenants retain the right to file a claim for compensation for the loss of the parking spot.

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: November 30, 2017

Residential Tenancy Branch