



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL RR FF

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. A participatory hearing, via teleconference, was held on November 21, 2017. The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- Cancel the Landlord's 2-Month Notice to End Tenancy for Landlord's Use of Property (the Notice); and,
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65.

The Landlord and the Tenant both attended the hearing and provided affirmed testimony. Both parties were provided the opportunity to present evidence orally and in written and documentary form, and to 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.

Preliminary and Procedural Issues

During the hearing, the Tenant testified that he is moving out of the rental unit at the end of November 2017, pursuant to the effective date of the Notice. He stated that he tried to withdraw his application because he has accepted the Notice and took steps to find a new place and move out. However, the Landlord wanted to continue with the hearing. The Tenant did not want to proceed with his application as he will be moving out shortly and he did not see the value in disputing the Notice. Considering all this, I find I must dismiss the Tenant's application in full.

Under section 55 of the Act, when a Tenant's application to cancel a notice to end tenancy is dismissed and I am satisfied that the Notice to end tenancy complies with the requirements under section 52, I must grant the Landlord an order of

possession. Section 52 of the *Act* requires that any notice to end tenancy issued by a landlord must be signed and dated by the landlord, give the address of the rental unit, state the effective date of the notice (November 30, 2017), state the grounds for ending the tenancy (rental unit will be occupied by the Landlord or family member), and be in the approved form.

I find that the Notice issued by the Landlord meets the requirements for form and content and the Landlord is entitled to an order of possession, based on the effective date of the Notice.

Next, I turn to the following portion of the *Act*:

Tenant's compensation: section 49 notice

51 (1) A tenant who receives a notice to end a tenancy under section 49 [*landlord's use of property*] is entitled to receive from the landlord on or before the effective date of the landlord's notice an amount that is the equivalent of one month's rent payable under the tenancy agreement.

(1.1) A tenant referred to in subsection (1) may withhold the amount authorized from the last month's rent and, for the purposes of section 50 (2), that amount is deemed to have been paid to the landlord.

In the hearing the Landlord stated he issued a 10 Day Notice on November 8, 2017, because the Tenant did not pay rent. However, pursuant to section 51 of the *Act*, I find the Tenant is entitled to compensation which is equivalent to one month's rent. As such, the Tenant was entitled to withhold November rent, given this was his last month in the rental unit after receiving the 2-month Notice to End Tenancy under section 49 of the *Act*.

Conclusion

I dismiss the Tenant's application, in full, without leave to reapply.

The landlord is granted an order of possession effective **November 30, 2017, at 1pm**, after service on the tenant. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

The Tenant has received the required compensation of the equivalent of one month of rent, by not paying the November rent, pursuant to the 2 month Notice. In other words, I find that no rent was owed for November due to the 2 month Notice given by the Landlord to the Tenant.

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 22, 2017

Residential Tenancy Branch