



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, FFT

Introduction

This hearing dealt with applications from two separate tenants in this joiner application pursuant to the *Residential Tenancy Act* (the *Act*). As the tenants in the top floor and the main floor had the identical applications which the tenants agreed to have joined in one hearing of their request for the following:

- cancellation of the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property (the 2 Month Notice) pursuant to section 49; and
- authorization to recover their filing fees for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The tenant who attended this hearing and the advocated confirmed that they had been authorized to act on the other tenant's behalf in this matter.

As the tenant confirmed that the tenants were both handed the 2 Month Notice by the landlord on February 25, 2018, I find that the tenants were duly served with these Notices in accordance with section 88 of the *Act*. As the landlord confirmed that they received copies of the tenants' dispute resolution and written evidence packages sent by the tenants by registered mail in mid-March 2018, I find that the landlord was duly served with these packages in accordance with sections 88 and 89 of the *Act*. Since the tenant confirmed that both tenants had received the landlord's written evidence, I find that the written evidence was served in accordance with section 88 of the *Act*.

Issues(s) to be Decided

Should the landlord's 2 Month Notices be cancelled? If not, is the landlord entitled to Orders of Possession? Are the tenants entitled to recover the filing fee for their applications from the landlord?

Background and Evidence

Undisputed written evidence was submitted that these periodic tenancies for separate floors of this house commenced on September 1, 2016. Monthly rent for the main floor where Tenant AE resides was set at \$1,650.00. Monthly rent for the top floor where Tenant TB resides was set at \$2,000.00. Rent is payable on the first of each month.

The landlord's 2 Month Notice was issued to both tenants for the following reason stated on that Notice:

- *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...*

In submitting their application to cancel the 2 Month Notice, the tenants questioned whether the landlord truly intended in good faith to reside in this large home.

Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing, the parties engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Legal counsel for the landlord advised that prior to this hearing the parties had agreed to a final and binding resolution of their dispute. As the parties already had a signed final agreement to their dispute, they advised that the only portions of their agreement requiring implementation at this hearing were their commitments to the following:

1. Both parties agreed that this tenancy will end by 1:00 p.m. on June 1, 2018, by which time Tenants TB and AE and all occupants of their rental units will have surrendered vacant possession of the rental unit to the landlord.
2. Both parties agreed that this tenancy ends on the basis of the landlord's 2 Month Notice.
3. Both parties agreed that the tenants were allowed to forego paying their monthly rent for April 2018 to comply with the requirements of the *Act*, but that monthly

rent for May is due on May 1, 2018, as set out in their respective Residential Tenancy Agreements.

4. Both parties agreed that this settlement agreement constituted a final and binding resolution of the tenants' applications and that they did so of their own free will and without any element of force or coercion.

Conclusion

To give effect to the settlement reached between the parties and as discussed at the hearing, I issue the attached Order of Possession to be used by the landlord only in the event that the tenants do not vacate the rental premises by 1:00 p.m. on June 1, 2018, in accordance with their agreement. The landlord is provided with these Orders in the above terms and the tenant(s) must be served with an Order in the event that the tenants do not vacate the premises by the time and date set out in their agreement. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

In order to implement the above settlement reached between the parties, I order that the tenants are not responsible for paying any monthly rent for April 2018, but are responsible for paying monthly rent in full for May 2018. As noted at the hearing, this tenancy ends on the basis of the landlord's 2 Month Notice.

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: April 23, 2018

Residential Tenancy Branch