



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1140375 B.C. Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, CNC, ERP, RR

Introduction

This hearing dealt with applications from both the landlord and the tenants under the *Residential Tenancy Act* (the *Act*). The landlord applied for:

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an order of possession for unpaid rent and/or for cause pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to recover its filing fee for this application from the tenants pursuant to section 72.

The tenants applied for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- an order to the landlord to make emergency repairs to the rental unit pursuant to section 33; 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.

Both parties attended the hearing via conference call and provided affirmed testimony. The landlord's agent (the landlord) stated that the tenants were each served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on June 25, 2018. The landlord provided copies of the Canada Post Customer Receipt Tracking label(s). The tenants stated that they did not receive the package. The landlord clarified that the package(s) were being held by Canada Post at the request of the tenant(s). The tenants argued that no such request was made. The

tenants stated that the landlord was served with the notice of hearing package via facsimile on June 12, 2018. The landlord disputes that no package was received. The tenants were unable to provide sufficient evidence of service. I accept the affirmed testimony of both parties and find that the tenants' application is dismissed with leave to reapply as there is insufficient evidence of service. Although the tenants did not receive the landlord's application for dispute, the tenants agreed that as it was related to the application that they had filed that there was no issue with responding to the landlord's application. As such, the landlord's application shall proceed on this basis.

Issue(s) to be Decided

Are the tenants entitled to an order cancelling the 10 Day Notice?

Are the tenants entitled to an order cancelling the 1 Month Notice?

Are the tenants entitled to an order for emergency repairs?

Are the tenants entitled to an order to reduce rent for repairs, services or facilities agreed upon but not provided?

Background, Evidence, Analysis and Conclusion

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

On June 2, 2018 the landlord served the tenants with a 10 Day Notice dated June 2, 2018 which claims that the tenants failed to pay rent. At this time, a discrepancy has occurred in which the landlord's submitted copy of the 10 Day Notice was for a different tenant. As such, the landlord's application regarding the 10 Day Notice dated June 2, 2018 is dismissed with leave to reapply.

On June 2, 2018, the landlord served the tenant with the 1 Month Notice dated June 2, 2018. The 1 Month Notice sets out an effective end of tenancy date of July 31, 2018 and that it was being given as:

- the tenant is repeatedly late paying rent.

Section 63 of the Residential Tenancy Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the two parties during the hearing led to a resolution. Specifically, it was agreed as follows:

Both parties agreed to mutually end the tenancy on September 15, 2018, by which time the tenants will have vacated the rental unit.

The landlords agreed to cancel the landlord's application for dispute. The tenants' agreed to cancel the tenants' application for dispute.

The landlord's agreed to abandon all monetary claims for unpaid rent for the period January 1, 2018 to September 15, 2018.

Both parties agreed that the above noted particulars comprised a full and final settlement of all aspects of the dispute arising from their applications for dispute resolution.

The parties confirmed at the end of the hearing that this agreement was made on a voluntary basis and that the parties understood the nature of this full and final settlement of this matter.

In order to implement the above settlement reached between the parties, I issue an Order of Possession to be used by the landlord if the tenants fail to vacate the rental premises in accordance with their agreement by 1:00 pm on September 15, 2018. The landlord is provided with this order in the above terms and the tenant(s) must be served with this Order in the event that the tenants do not vacate the premises by the time and date set out in their agreement. Should the tenants fail to comply with this Order, the Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: August 02, 2018

Residential Tenancy Branch