



Dispute Resolution Services

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Residential Tenancy Branch Office of Housing and Construction Standards

A matter regarding 583230 BC LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNL, MNDCT, OLC, FFT

Introduction

This teleconference hearing was scheduled in response to an application by the Tenant under the *Residential Tenancy Act* (the “Act”) to cancel a Two Month Notice to End Tenancy for Landlord’s Use of Property (the “Two Month Notice”), for a Monetary Order for damages or compensation, for an Order for the Landlord to comply with the *Act*, *Residential Tenancy Regulation* or the tenancy agreement, and for the recovery of the filing fee paid for this application.

The property owner (the “Landlord”) and one of the Tenants were present for the duration of the teleconference hearing. The Landlord confirmed receipt of the Notice of Dispute Resolution Proceeding package by registered mail, along with a copy of the Tenants’ evidence. The Landlord did not submit any evidence prior to the hearing.

All parties were affirmed to be truthful in their testimony and were provided with the opportunity to present evidence, make submissions and question the other party.

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.

Issues to be Decided

Should the Two Month Notice to End Tenancy for Landlord’s Use of Property be cancelled?

If the Two Month Notice is upheld, is the Landlord entitled to an Order of Possession?

Are the Tenants entitled to a Monetary Order for damage or compensation?

Should the Landlord be ordered to comply with the *Residential Tenancy Act*, *Residential Tenancy Regulation* or the tenancy agreement?

Are the Tenants entitled to the recovery of the filing fee paid for the Application for Dispute Resolution?

Background and Evidence

The Tenant provided testimony that he moved into the rental unit on June 1, 2017. He stated that monthly rent is \$1,400.00 after a \$100.00 per month reduction for renovations he completed in the unit prior to moving in. A security deposit in the amount of \$700.00 was paid at the outset of the tenancy.

The Landlord testified that the tenancy began on May 1, 2017. He stated that monthly rent in the amount of \$1,400.00 is due on the first day of the month and that rent was never \$1,500.00. He agreed that a security deposit of \$700.00 was paid at the outset of the tenancy.

The tenancy agreement was submitted into evidence and confirms monthly rent as \$1,400.00 per month and the security deposit as \$700.00. The agreement originally stated the start of tenancy date as May 1, 2017, but was crossed out and changed to June 1, 2017.

The Landlord served the Tenant with a Two Month Notice on May 30, 2018 by giving the notice to him in person. The Tenant confirmed receipt of the Two Month Notice on May 30, 2018.

The Two Month Notice states the effective end of tenancy date as July 31, 2018 and the reason for ending the tenancy as the following:

- The rental unit will be occupied by the landlord or the landlord's close family member (parent, spouse or child; or the parent or child of that individual's spouse)

The Landlord testified that his child will be moving into the rental unit. The Tenant testified that he was advised that the Landlord's child would no longer be moving into the unit, but the Landlord confirmed that his child will still be moving in.

Both parties confirmed that rent for June 2018 was not paid as one month of compensation under Section 51(1) of the *Act*. The parties also agreed that rent for August 2018 had not yet been paid. The Landlord stated that this was due if the Tenant continues living in the rental unit through to the end of August 2018.

The parties came to a settlement agreement regarding the Two Month Notice which will be outlined below.

The Tenant also applied for an Order for the Landlord to comply with the *Act, Residential Tenancy Regulation* or tenancy agreement. He testified that this was due to the belief that the Landlord was not issuing the Two Month Notice in good faith, but the Tenant clarified that he was willing to move out if the Landlord still intended to use the rental unit for the reason stated on the Two Month Notice.

The Tenant also applied for monetary compensation for renovations that he completed in the rental unit prior to moving in. The Tenant testified that he completed renovations in the amount of \$10,561.95 and that over \$9,000.00 remains outstanding. If the tenancy ends, the Tenant will no longer be receiving compensation through a reduction in rent and is therefore requesting a monetary order for the remainder owed.

The Tenant testified that prior to the start of the tenancy, an arrangement was made to pay \$100.00 less per month in rent as compensation for the renovations completed. The Tenant stated that rent was initially set to be \$1,500.00 per month, but was reduced to \$1,400.00 after the deduction for the

renovations. The Tenant testified that they moved into the rental unit on June 1, 2017, after the renovations had been completed.

The Tenant stated that this arrangement was made between himself and the property management company that was initially involved with the property. After a few months of living in the rental unit, that property management company was no longer involved and the Tenant began direct communication with the property owner/Landlord.

The Tenant submitted a quote for the work completed dated May 10, 2017, as well as an invoice with the total for the renovations, dated May 26, 2017. The invoice includes the following statement, '\$100/month rent credits may apply during the tenancy'.

The Landlord testified that the arrangements for the renovations were made between the property management company at the time and the Tenant. He was aware that some renovations were being completed, but was not aware of the extent of the renovations or that the person completing the renovations would be moving into the rental unit.

The Landlord also stated that he was not aware of any agreement regarding a reduction in rent. It was his understanding that rent was \$1,400.00 per month, as stated on the tenancy agreement.

The Landlord provided testimony that he was having issues with the property management company and confirmed that they are no longer involved with the property.

The Landlord offered to sit down with the Tenant, himself and the property management company to discuss the issue.

The Landlord testified that the issue with the renovations and payment for renovations is separate from the tenancy and was not connected to the tenancy in any way.

Settlement

During the hearing, the parties were provided with an opportunity to settle the dispute pursuant to Section 63 of the Act.

They agreed to the following terms as a settlement agreement:

1. The Tenants will vacate the rental unit by August 31, 2018 at 1:00 pm.
2. An Order of Possession will be issued to the Landlord to uphold this settlement agreement. The Order of Possession will be effective August 31, 2018 at 1:00 pm.
3. The Tenants will pay rent for August 2018 in the amount of \$1,400.00.

The parties confirmed that they were entering this settlement agreement voluntarily and that they understood this agreement fully resolves the dispute regarding the Two Month Notice.

Analysis

I find that the Tenants' application to cancel the Two Month Notice, is fully resolved through the terms of the settlement agreement. I also find that no order is required for the Landlord to comply with the *Act*, *Regulation* or tenancy agreement as that was connected to the dispute over the Two Month Notice, which has now been resolved.

As for the Tenants' monetary claim, I find insufficient evidence to determine that the Landlord and Tenant had an arrangement to pay back the cost of renovations through the payment of rent in this tenancy.

I find that the tenancy agreement outlines a \$1,400.00 per month rent payment and a \$700.00 security deposit with no mention of the \$100.00 per month deduction or initial monthly rent of \$1,500.00.

I also find that the statement on the invoice for renovations states that \$100.00 monthly rent credits may apply, but does not confirm details of an arrangement for payment that was connected to the tenancy and agreed upon by the parties.

As such, I decline to award any monetary compensation to the Tenants and dismiss this claim with leave to reapply.

As a settlement agreement was reached and the monetary claims dismissed, I decline to award the recovery of the filing fee paid for this Application for Dispute Resolution.

Conclusion

As part of the settlement agreement reached by the parties, I grant an Order of Possession to the Landlord effective **August 31, 2018 at 1:00 pm.**

Should the Tenants fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The Tenants' monetary claim is dismissed with leave to reapply.

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 10, 2018

Residential Tenancy Branch