



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding YWCA METRO VANCOUVER
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenant's application pursuant to section 47 of the *Residential Tenancy Act* (the *Act*) for cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice).

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.

As the tenant confirmed that they were handed the 1 Month Notice on September 21, 2018, I find that the tenant was duly served with this Notice in accordance with section 88 of the *Act*. As the landlord did not dispute the sworn testimony provided by the tenant's advocate that the tenant's September 25, 2018 registered mailing of a copy of the tenant's dispute resolution hearing package was received by the landlord on October 2, 2018, I find that the landlord was duly served with this package in accordance with section 89 of the *Act*. Since the tenant confirmed that they had received copies of the landlord's written evidence on October 23, 2018 and October 25, 2018, I find that the landlord's written evidence was served in accordance with section 88 of the *Act*. The tenant did not submit written evidence beyond that which was included in their dispute resolution application.

Issues(s) to be Decided

Should the landlord's 1 Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

Background and Evidence

The landlord entered into written evidence a copy of the Residential Tenancy Agreement (the Agreement) for this tenancy for a subsidized two bedroom rental unit for the tenant and the tenant's minor son, which commenced on April 19, 2017. The subsidized monthly rent is \$570.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$607.50 security deposit paid on April 19, 2017. The landlord gave undisputed sworn testimony that the \$570.00 shelter payment issued by the Ministry on the tenant's behalf for November 2018 has been returned to the Ministry as this tenancy was to have ended by October 31, 2018. No replacement payment has been made for the tenant's continuing occupancy of the rental unit for November 2018.

The landlord entered into written evidence a copy of the 1 Month Notice, requiring the tenant to end this tenancy by October 31, 2018. In that Notice and in the attached letter to the tenant, the landlord cited the following reasons for the issuance of the Notice:

Tenant has allowed an unreasonable number of occupants in the unit/site

Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

Section 47 of the *Act* contains provisions by which a landlord may end a tenancy for cause by giving notice to end tenancy. Pursuant to section 47(4) of the *Act*, a tenant may dispute a 1 Month Notice by making an application for dispute resolution within ten days after the date the tenant received the notice. If the tenant makes such an application, the onus shifts to the landlord to justify, on a balance of probabilities, the reasons set out in the 1 Month Notice. As the tenant applied for dispute resolution on September 24, 2018, within the ten day time period for doing so, the onus rests with the landlord to demonstrate that this tenancy should be ended for the reasons cited in the 1 Month Notice.

The tenant's advocate testified that an arrangement has been made with a community organization, which will enable the tenant to find alternate accommodations on December 1, 2018.

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.

Both parties agreed to the following final and binding resolution of their dispute:

1. Both parties agreed that this tenancy will end by 1:00 p.m. on December 1, 2018, by which time the tenant will have surrendered vacant possession of the rental unit to the landlord.
2. The tenant agreed to pay the landlord monthly rent in the amount of \$570.00, currently owing for the month of November 2018, as soon as possible.
3. The tenant agreed to pay all outstanding utility charges arising out of this tenancy.
4. The tenant agreed to prevent their brother from staying in the rental unit for the duration of this tenancy,
5. The tenant agreed that they will not contravene the landlord's rules regarding the allowance of dogs or bicycles into this rental building.
6. Both parties agreed that this settlement agreement constituted a final and binding resolution of the tenant's application and all issues currently in dispute arising out of this tenancy at this time 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 if the tenant does not vacate the rental premises in accordance with their agreement. The landlord is provided with these Orders in the above terms and the tenant must be served with an Order in the event that the tenant does not vacate the premises by 1:00 p.m. on December 1, 2018, as set out in their agreement. Should the tenant 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 issue a monetary Order in the landlord's favour in the amount of \$570.00. I deliver this Order to the landlord in support of the above agreement for use **only** in the event that the tenant does not abide by the terms of Clause 2 of the above settlement.

I also order the tenant to pay all utility charges arising out of this tenancy.

I order that the tenant's brother no longer be allowed to stay in the rental unit for the remainder of this tenancy.

I order the tenant to comply with the landlord's rules that prevent tenants from allowing visitors to bring dogs or bicycles inside this rental building.

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 05, 2018

Residential Tenancy Branch