



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNR, FFT, OLC

Introduction:

The Application for Dispute Resolution filed by the Tenant seeks the following:

- a. An order to cancel the 10 day Notice to End Tenancy dated September 18, 2018
- b. An order that the landlord comply with the Residential Tenancy Act, regulations and/or tenancy agreement
- c. An order to recover the cost of the filing fee.

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Notice to End Tenancy was served on the Tenant by placing it under his front door on September 18, 2018. Further I find that the Application for Dispute Resolution/Notice of Hearing was personally served on the landlord on September 21, 2018. With respect to each of the applicant's claims I find as follows:

Issues to be Decided:

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling the 10 day Notice to End Tenancy dated September 18, 2018?
- b. Whether the tenant is entitled to an order that the landlord comply with the Residential Tenancy Act, regulations and/or tenancy agreement?
- c. Whether the tenant is entitled to recover the cost of the filing fee?

Background and Evidence:

The tenant moved into the rental unit approximately 4 years ago. The tenancy with the present landlord began on March 1, 2018. The tenancy agreement provided that the tenant(s) would pay rent of \$1200 per month payable in advance on the first day of each month. The tenant(s) paid a security deposit of \$600 at the start of the tenancy.

The tenant failed to pay the rent for September 2018. He submitted he was entitled to deduct the cost of repairing a deck from the rent. However the tenant vacated the rental unit at the end of September and is no longer interested in having the tenancy re-instated. The landlord testified the tenant has failed to return the keys and he is uncertain whether the tenant has vacated.

Analysis:

I ordered that the application of the Tenant be dismissed without leave to re-apply. The Tenant has vacated the rental unit and is no longer interested into having the tenancy re-instated. The landlord seeks an Order of Possession to ensure he can legal take possession of the rental unit as the tenant has not returned the keys.

I order that the tenancy shall end on the date set out in the Notice. I further order that the application of the tenant for an order that the landlord comply with the Act, Regulations and/or tenancy agreement and for the cost of the filing fee be dismissed without leave for re-apply. .

Order for Possession:

The Residential Tenancy Act provides that where an arbitrator has dismissed a tenant's application to cancel a Notice to End Tenancy, the arbitrator must grant an Order for Possession. As a result I granted the landlord an Order for Possession forthwith upon service of a copy of this order on you. .

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

This decision is final and binding on the parties.

The landlord filed a monetary order worksheet seeking compensation for loss of rent. The landlord must first file an Application for Dispute Resolution and serve it on the Tenant before that can be adjudicated.

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