



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, LRE

Introduction

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

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47; and
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70.

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 by the landlord on November 8, 2018, I find that the tenant was duly served with this Notice in accordance with section 88 of the *Act*. As the landlord confirmed that they received a copy of the tenant's dispute resolution hearing package sent by the tenant by registered mail on November 19, 2018, I find that the landlord was duly served with this package in accordance with section 89 of the *Act*. Since both parties confirmed that they had received one another'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 1 Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession? Should any orders be issued limiting the landlord's right to enter the rental unit?

Background and Evidence

On February 21, 2018, the parties signed a Residential Tenancy Agreement (the Agreement) to enable the tenant to commence living in the upper level of a duplex on March 1, 2018. This month-to-month tenancy requires the tenant to pay the landlord monthly rent of \$1,500.00 in advance by the first of each month. The landlord lives below the tenant's suite. The landlord

continues to hold the tenant's \$750.00 security deposit and \$500.00 pet damage deposit, paid on February 8, 2018.

The tenant entered into written evidence a copy of the landlord's 1 Month Notice, in which the landlord sought an end to this tenancy by December 8, 2018 for the following reasons:

Tenant or a person permitted on the property by the tenant has:

- *significantly interfered with or unreasonably disturbed another occupant or the landlord;*
- *seriously jeopardized the health or safety or lawful right of another occupant or the landlord;*
- *put the landlord's property at significant risk.*

Tenant has engaged in illegal activity that has, or is likely to:

- *adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord;...*

The corrected effective date of the 1 Month Notice is December 31, 2018, the earliest possible date when this tenancy could end on the basis of the 1 Month Notice issued on November 8, 2018. At the hearing, the landlord testified that there was no illegal activity that they were maintaining had been occurring in the rental premises, and as such, the landlord's 1 Month Notice was seeking an end to this tenancy on the basis of the first three of the grounds cited above, and not the final one.

The tenant's application for dispute resolution maintained that the landlord had not given any warnings that their behaviours might lead to an end to this tenancy for cause. The tenant also alleged in their application for dispute resolution that the landlord did not provide 24 hours written notice before entering the tenant's rental suite.

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 February 28, 2019, by which time the tenant will have surrendered vacant possession of the rental unit to the landlord.
2. The tenant agreed to pay the scheduled monthly rent of \$1,500.00 in full on or before the first of each month for January and February 2019, and the landlord agreed to accept these payments for use and occupancy only and not to reinstate this tenancy.
3. 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 having been applied.

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 by 1:00 p.m. on February 28, 2019. 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 the time and date 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.

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: December 17, 2018

Residential Tenancy Branch