



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, LRE, FFT

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;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

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 received the 1 Month Notice posted by the landlord on the tenant's door on November 1, 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 the tenant handed them a copy of the tenant's dispute resolution hearing package on November 22, 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 initial written evidence packages, I find that the written evidence was served in accordance with section 88 of the *Act*. I have not considered the tenant's late provision of additional written evidence served to the landlord the day before this hearing and to the RTB on the day of the hearing. Service of this very late evidence did not occur 14 days in advance of this hearing, as is required by the RTB's Rules of Procedure and as outlined on the dispute resolution information provided to the tenant.

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 with respect to this tenancy? Is the tenant entitled to recover the filing fee for this application from the landlord?

Background and Evidence

This tenancy began on or about April 1, 2012 on the basis of an oral agreement. No written tenancy agreement has been created for this tenancy. The tenant maintained that their current monthly rent is \$800.00, payable in advance by the first of each month. The landlord's advocate claimed that the actual monthly rent is set at \$700.00, payable on the first of each month. This \$100.00 difference reflects the parties' disagreement as to whether a second occupant is allowed to reside on the premises. The parties agreed that the tenant has paid and the landlord has accepted rent payments of \$800.00 for October, November and December 2018.

The landlord entered into written evidence a copy of the 1 Month Notice. In that Notice, requiring the tenant to end this tenancy by December 1, 2018, the landlord cited the following reason for the issuance of the Notice:

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

As noted at the hearing, the corrected effective date of the 1 Month Notice is December 31, 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 March 31, 2019, by which time the tenant will have surrendered vacant possession of the rental unit to the landlord.
2. Both parties agreed that the monthly rent for the remainder of this tenancy is set at \$800.00, payable in advance on the first of each month.
3. Both parties agreed that all future monthly rent payments will be made by the tenant by e-transfer to the email address of the landlord's advocate, as noted at the beginning of this decision.
4. The landlord agreed to issue 24 hour written notices to the tenant to conduct any inspections of the rental unit or to access the rental unit during the remainder of this tenancy.
5. 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 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 only in the event that the tenant does not vacate the rental premises in accordance with their agreement by 1:00 p.m. on March 31, 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.

To implement the settlement agreement between the parties, I order that the monthly rent for the remainder of this tenancy is set at \$800.00, payable in advance by e-transfer by the tenant on the first of each month to the email address of the landlord's advocate as noted at the beginning of this decision.

I also order the landlord to issue 24 hour written notices to enter the tenant's rental suite in accordance with the *Act* and the *Regulations* on every non-emergency occasion when the landlord needs to gain access to the tenant's rental unit for the remainder of this tenancy.

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 18, 2018

Residential Tenancy Branch