



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MIDDLEGATE DEVELOPMENTS LTD. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, 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; 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 on their door on February 14, 2019, 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 were handed a copy of the tenant's dispute resolution hearing package well in advance of this hearing, 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? Is the tenant entitled to recover the filing fee for this application from the landlord?

Background and Evidence

The parties signed a month-to-month tenancy agreement on December 15, 2016, for occupancy of a rental unit in a multi-floor building that began on January 1, 2017. The current monthly rent is set at \$1,611.00, payable in advance on the last day of the month. The landlord continues to hold the tenant's \$756.00 security deposit paid when this tenancy began.

The landlord entered into written evidence a copy of the 1 Month Notice, requiring the tenant to end this tenancy by March 14, 2019. As noted at the hearing, this incorrect effective date automatically corrects to March 31, 2019. In the 1 Month Notice, the landlord cited the following reasons for the issuance of the Notice:

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

- *significantly interfered with or unreasonably disturbed another occupant or the landlord;...*

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;*

At the hearing, Landlord EG (the landlord) testified that the second of the above reasons was incorrectly included in the 1 Month Notice. They confirmed that the sole reason for ending this tenancy was on the basis of the first of the reasons outlined above.

The landlord testified that the landlord has accepted a payment from the tenant prior to April 1, 2019, enabling the tenant to remain in the rental unit for the current rental period, which expires at the end of April 2019. The tenant confirmed that they realized that the landlord was continuing to seek an end to this tenancy on the basis of the 1 Month Notice.

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 June 30, 2019, by which time the tenant will have surrendered vacant possession of the rental unit to the landlord.
2. The tenant committed to pay rent when it becomes due for the remainder of this tenancy.
3. The parties agreed that this tenancy may end prior to June 30, 2019, in the event that the tenant provides 30 days written notice to the landlord to end this tenancy in accordance with the *Act*.
4. The landlord agreed to not pursue any further rent payments from the tenant in the event that the tenant vacates the rental unit prior to May 1, 2019.
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 at this time and that they did so of their own free will and without any element of force or coercion having been applied to do so.

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 June 30, 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: April 04, 2019

Residential Tenancy Branch