



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC, ERP, LAT, LRE, MNDCT, OLC, PSF, RP, RR, FFT

Introduction:

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

- a. An order to cancel the one month Notice to End Tenancy dated March 20, 2019 and setting the end of tenancy for April 30, 2019
- b. An order for emergency repairs and for repairs
- c. An order authorizing the Tenant to change the locks to the rental unit.
- d. An order suspending or setting conditions on the landlord's right to enter the rental unit.
- e. A monetary order in the sum of \$4257.
- f. An order that the landlord comply with the Act, Regulations and/or tenancy agreement.
- g. An order that the landlord provide services or facilities required by the tenancy agreement or law.
- h. An order to reduce the rent for repairs, services or facilities agreed upon but not provided.
- i. 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 one month Notice to End Tenancy was served on the Tenant by posting on March 20, 2019. Further I find that the Application for Dispute Resolution/Notice of Hearing was personally served on March 29, 2019. With respect to each of the applicant's claims I find as follows:

Preliminary Matter:

Rule 2.3 of the Rules of Procedure provide as follows:

"2.3 Related issues

Claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.”

Many of the claims are unrelated. I determined that it was appropriate to hear the following claims in this hearing.

- a. Whether the tenant is entitled to an order to cancel the one month Notice to End Tenancy dated March 20, 2019 and setting the end of tenancy for April 30, 2019?
- b. Whether the tenant is entitled to an order for emergency repairs and for repairs?
- c. Whether the tenant is entitled to an order authorizing the Tenant to change the locks to the rental unit?
- d. Whether the tenant is entitled to an order to recover the cost of the filing fee?

I dismissed the following claims with liberty to re-apply as they are unrelated.

- Whether the tenant is entitled to an order suspending or setting conditions on the landlord’s right to enter the rental unit?
- Whether the tenant is entitled to a monetary order and if so how much?
- Whether the tenant is entitled to an order that the landlord comply with the Act, Regulations and/or tenancy agreement?
- Whether the tenant is entitled to an order that the landlord provide services or facilities required by the tenancy agreement or law?
- Whether the tenant is entitled to an order to reduce the rent for repairs, services or facilities agree upon but not provided?

Issues to be Decided:

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order to cancel the one month Notice to End Tenancy dated March 20, 2019 and setting the end of tenancy for April 30, 2019?
- b. Whether the tenant is entitled to an order for emergency repairs and for repairs?
- c. Whether the tenant is entitled to an order authorizing the Tenant to change the locks to the rental unit?
- d. Whether the tenant is entitled to an order to recover the cost of the filing fee?

Background and Evidence:

The tenancy began approximately 4 years ago. 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 parties testified the tenancy agreement in writing. However, neither party could find a copy of it and it was not introduced into evidence. .

Grounds for Termination:

The Notice to End Tenancy relies on the following grounds:

- 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

The Details set out in the Notice state “Did not comply to putting all original locks back on door or give keys and did not remove bird from the premises do to its constant screaming.”

The landlord gave the following evidence:

- The landlord lives upstairs. The tenant lives in bottom portion of the house. The tenant changed the locks to the doors of the rental unit without obtaining the consent of the landlord.
- The breaker box is in one of the rooms in the basement. The tenant changed the locks and did not provide the landlord with a key. The landlord is forced to text the Tenant to reset the breaker when it goes out. Often the tenant is not at home either at work or elsewhere and there is an extended period of time before the breaker is reset.
- On March 5, 2019 (the letter is misdated as it states May 5, 2019) the landlord gave the Tenant a notice stating the Tenant had 10 days not put all original locks back on all doors or (give them a key) and to remove the unauthorized bird.
- The tenant failed to change the locks back to the original lock or failed to provide the landlord with a key.
- The tenant owns a parrot. The landlord testified he is significantly disturbed because the parrot is constantly screaming. Recently one of the landlord's roommates had to move because of the excessive noise of the bird.
- The tenant is often not home. The landlord testified he does not think that she is living there.
- The rent for May has been paid.

The tenant gave the following evidence:

- When texted by the landlord she responds within a short period of time and she turns the breaker back on.
- She works a variety of different shifts and often has a different schedule than the landlord. At times she spends nights at her boyfriends.
- She changed the locks to the garage about 2 years ago and the landlord did not object.

- She changed the locks for her rental unit as there was a period of time when a realtor was coming in without getting her permission at first.
- She fears for her safety as some of the people the landlord has living with him are sketchy. There were break-ins at the rental unit she previously rented.
- The parrot does not make excessive noise at night unless provoked by noise from the landlord's rental unit.
- The parrot is 10 years old and has been there from the start of the tenancy and is worth \$2000. The landlord failed to give her sufficient time to find a new home.
- The tenant seeks the following repair order:
 - a. Repair the faucet in the bathroom
 - b. Replace the washing machine
 - c. Repair the water damage to the ceiling in her bedroom
 - d. Replace the kitchen pipes
 - e. Fix the light fixture in the bedroom
 - f. Clean up the broken retaining wall
 - g. Fix the light fixture in the hall.
 - h. Pest control

Analysis:

Section 31 of the Residential Tenancy Act provides as follows:

Prohibitions on changes to locks and other access

31 (1) A landlord must not change locks or other means that give access to residential property unless the landlord provides each tenant with new keys or other means that give access to the residential property.

(1.1) A landlord must not change locks or other means of access to a rental unit unless

(a) the tenant agrees to the change, and

(b) the landlord provides the tenant with new keys or other means of access to the rental unit.

(2) A tenant must not change locks or other means that give access to common areas of residential property unless the landlord consents to the change.

(3) A tenant must not change a lock or other means that gives access to his or her rental unit unless the landlord agrees in writing to, or the director has ordered, the change.

After carefully considering all of the relevant evidence and the submissions of the parties I determined the landlord has established sufficient cause to end the tenancy for cause based for the following reasons:

- Section 31(3) of the Residential Tenancy Act provides that a tenant “must not change a lock or other means that gives access to his or her rental unit unless the landlord agrees in writing or the tenant has obtained an order from the Residential Tenancy Act permitting this. The tenant failed to obtain an order and failed to get the landlord’s consent even though the landlord gave her 10 days in writing to do so.
- The failure of the tenant to change the locks back or give the landlord a key seriously jeopardized the health or safety or lawful right of another occupant or the landlord. It also significantly interfered and unreasonably disturbed the landlord. It denied him access to the breaker box. I determined the landlord went through lengthy periods where he was not able to have the breaker re-set.
- I do not accept the explanation of the Tenant as to the reason why she refused to give the landlord a key. She testified that there were break-ins at her previous residence. There is no evidence of break-ins at this residence. The tenant testified she was concerned that some of the roommates of the landlord were sketchy. Even if true this is not a significant explanation for the failure to give the landlord a key.
- Further I determined that the noise caused by parrot caused is often unreasonably disturbing and significantly interfering with the landlord. I accept the evidence of the landlord that one of his roommates left because of the noise from the parrot. The bird was unauthorized. The tenant was given an opportunity to search out other accommodation for the parrot. However, that has not occurred.

Determination and Orders:

After carefully considering all of the evidence I determined that the landlord has established sufficient cause to end the tenancy. As a result I dismissed the tenant’s application to cancel the one month Notice to End Tenancy. I order that the tenancy shall end. As the rent has been paid for May 2019 I set the effective day for the Order of Possession for May 31, 2019.

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 effective May 31, 2019.

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.

I dismissed the tenant's claim for an order authorizing the change of locks and a repair order as the tenancy is coming to an end. I also dismissed the Tenant's application for an order to recover the cost of the filing fee.

This decision is final and binding on the parties.

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: May 13, 2019

Residential Tenancy Branch