



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenant's application pursuant to section 47 of the *Residential Tenancy Act* (the *Act*) for cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice).

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 landlord's 1 Month Notice posted on their door by the landlord on March 21, 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 received a copy of the tenant's dispute resolution hearing package and written evidence sent by the tenant by registered mail on March 27, 2019, I find that the landlord was duly served with this material in accordance with sections 88 and 89 of the *Act*.

The landlord submitted written evidence on the Residential Tenancy Branch's (the RTB's) service portal website on the morning of the hearing. The landlord said that they did not provide this written evidence to the tenant. Since the tenant was not served with the landlord's written evidence by the landlord, I advised the parties that I could not consider this very late evidence provided by the landlord.

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?

Background and Evidence

This month-to-month tenancy began on November 1, 2018. Monthly rent is set at \$1,750.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$875.00 security deposit paid when this tenancy started.

The tenant said that no joint move-in condition inspection was performed at the beginning of this tenancy, and that no copy of a move-in condition inspection report was created by the landlord or provided to the tenant at that time.

The landlord provided contradicting sworn testimony with respect to the move-in inspection. At one point, the landlord confirmed that no joint move-in condition inspection was conducted. Later, the landlord changed her sworn testimony to state that a joint move-in condition inspection was undertaken with an individual delegated that responsibility by the tenant to act on her behalf. The landlord also provided contradicting testimony with respect to whether a report of that inspection was created and whether it was provided to the tenant. Initially, the landlord said that no report was created; later the landlord changed their testimony to maintain that a report was created and provided to the tenant. The tenant denied any such report was ever provided to her.

Neither party entered into written evidence a copy of the landlord's 1 Month Notice, although they agreed that the effective date on that Notice was April 30, 2019.. The parties also agreed that the landlord has accepted the tenant's payment of \$1,750.00, which enables the tenant to remain in the rental unit until at least May 31, 2019.

The parties agreed that on April 30, 2019, the tenant provided the landlord with their own notice to end this tenancy by May 31, 2019.

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 May 31, 2019, by which time the tenant will have surrendered vacant possession of the rental unit to the landlord.
2. Both parties agreed that this settlement agreement constituted a final and binding resolution of the tenant's application 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. 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: May 07, 2019

Residential Tenancy Branch