



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, LRE, OLC, FFT

Introduction

On November 25, 2019, the Tenant applied for a Dispute Resolution proceeding seeking to cancel a Two Month Notice to End Tenancy for Landlord's Use of Property (the "Notice") pursuant to Section 49 of the *Residential Tenancy Act* (the "Act"), seeking to set conditions on the Landlords' right to enter the rental unit pursuant to Section 70 of the *Act*, seeking an Order for the Landlords to comply pursuant to Section 62 of the *Act*, and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Tenant and both Landlords attended the hearing. All parties in attendance provided a solemn affirmation.

The Tenant advised that he served each Landlord with a Notice of Hearing and evidence package by registered mail on or around December 3, 2019 and the Landlords confirmed that they received this package. Based on the undisputed testimony, in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Landlords were served this package.

The Tenant advised that he served additional evidence to the Landlords on or around January 6, 2020 by mail and the Landlords confirmed that they received this package. As this evidence was served in accordance with the timeframe requirements of Rule 3.14 of the Rules of Procedure, I have accepted the Tenant's evidence and will consider it when rendering this decision.

The Landlords advised that they served their evidence to the Tenant on or around January 4, 2020 by and the Tenant confirmed that he received this package. As this evidence was served in accordance with the timeframe requirements of Rule 3.15 of the

Rules of Procedure, I have accepted the Landlords' evidence and will consider it when rendering this decision.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this decision.

I note that Section 55 of the *Act* requires that when a Tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a Landlord, I must consider if the Landlord is entitled to an Order of Possession if the Application is dismissed and the Landlord has issued a notice to end tenancy that complies with the *Act*.

However, during the hearing, the Tenant advised that he was never served the Notice. As such, I dismiss this claim in its entirety.

Issue(s) to be Decided

- Is the Tenant entitled to an Order for the Landlords to comply?
- Is the Tenant entitled to restrictions being set on the Landlords' right to enter?
- Is the Tenant entitled to recover the filing fee?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy started on March 1, 2019 and that rent was established at \$1,450.00 per month, due on the first day of each month. A security deposit of \$525.00 was also paid. A copy of the signed tenancy agreement was submitted as documentary evidence.

All parties also agreed that the Tenant signed the tenancy agreement with two other co-tenants and those co-tenants gave written notice to end the tenancy on October 29, 2019 that was effective for January 1, 2020. The Tenant did not realize that as co-tenants, this written notice ended the tenancy for him as well.

Settlement Agreement

The parties raised the possibility of settlement pursuant to Section 63(1) of the *Act* which allows an Arbitrator to assist the parties to settle the dispute. I explained to the parties that settlement discussions are voluntary, that if they chose not to discuss settlement I would make a final and binding decision on the matter, and that if they chose to discuss settlement and did not come to an agreement, that I would make a final and binding decision on the matter.

I advised the parties that if they did come to an agreement, I would write out this agreement in my written decision and make any necessary orders. I also explained that the written decision would become a final and legally binding agreement. The parties did not have questions about discussing a settlement when asked.

The parties engaged in a discussion on what would be an amenable settlement for both parties. The Landlords and the Tenant agreed as follows:

1. The Tenant will retain possession of the rental unit but must give up vacant possession of the rental unit at **1:00 PM on March 31, 2020**.
2. The Tenant will pay February and March 2020 rent in the amount of **\$1,450.00** per month on the day due according to the tenancy agreement.

This agreement is fully binding on the parties and is in full and final satisfaction of this dispute.

This settlement agreement was reached in accordance with Section 63 of the *Act*. The parties confirmed at the end of the hearing that this agreement was made on a voluntary basis and that the parties understood the binding nature of this full and final settlement of these matters.

The parties also discussed an issue with respect to the Tenant's belief that the Landlords were entering the rental unit without providing the proper written notice in accordance with Section 29 of the *Act*. The Landlords were cautioned that they must provide the proper written notice to enter the rental unit and that the times for entry must be reasonable. The Tenant was cautioned that if the Landlords provide the proper written notice for entry, he cannot bar the Landlords from entering the rental unit. Both parties were cautioned of potential consequences if there are breaches of the *Act*.

Conclusion

The parties reached a full and final settlement agreement in resolution of their dispute. I have recorded the terms of settlement in this decision. In support of the settlement described above and with agreement of both parties, I grant the Landlords a conditional Order of Possession, to serve and enforce upon the Tenant if necessary, effective at **1:00 PM on March 31, 2020**. This Order must be served on the Tenant. If the Tenant fails to comply with this Order, the Landlords may file the Order with the Supreme Court of British Columbia and be enforced as an Order of that Court.

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: January 23, 2020

Residential Tenancy Branch