



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Baptist Housing Society of BC and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

MNDL-S, OPC

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- A monetary Order for Damages and authorization to retain a security deposit pursuant to sections 38 and 67; and
- An Order of Possession for Cause pursuant to sections 47 and 55.

The landlord attended the hearing, represented by an administrator, ED ("landlord"). The tenant attended the hearing and was accompanied by a case worker, JK. As both parties were in attendance, service of documents was confirmed. The tenant acknowledge receiving the landlord's Notice of Dispute Resolution Proceedings package and stated she had no concerns with timely service of documents.

Issue(s) to be Decided

Is the landlord entitled to:

- A monetary Order for Damages and authorization to retain a security deposit pursuant to sections 38 and 67; and
- An Order of Possession for Cause pursuant to sections 47 and 55?

Background and Evidence

The landlord gave the following testimony. The tenancy began on July 1, 2008. The rental unit is a subsidized unit in a housing complex with 92 other tenants and this tenant pays 30% of her gross earnings to the landlord as rent. At the commencement of the tenancy, the landlord collected a security deposit of \$276.50 which he continues to hold.

The landlord served the tenant with the One Month Notice To End Tenancy for Cause on January 16, 2020 by slipping a package under the tenant's door together with

previously issued caution letters and notices. No proof of service document was provided as evidence by the landlord. No witnesses were called to corroborate the landlord's testimony that he served it on this date.

The tenant does not acknowledge being served with the Notice to End Tenancy, although she stated she now has one in her possession. She stated it was *'just given to me a little while ago'* by the landlord. The landlord testified that he made an additional copy of the Notice when providing her his evidence gathered for this hearing.

Analysis

A Notice to End Tenancy is a document that is governed by section 88 of the *Act* regarding service of documents. These methods of service are provided are:

- Hand delivering a copy to the person
- Mailing a copy to the tenant's residence or address for service of documents
- Leaving a copy with an adult who apparently lives with the tenant
- Leaving a copy in the mail box or mail slot at the tenant's residence
- Faxing a copy to the tenant's fax number provided for service
- Attaching a copy on the door or other conspicuous place
- As ordered by the director of the Residential Tenancy Branch (attach copy of substituted service order)

Residential Tenancy Policy Guideline PG-12 [Service Provisions] provides further guidance respecting service of documents. Specifically, the guideline states:

attaching a copy of the document to a door or other conspicuous place at the address where the person to be served resides at the time of service

If this method is used, the person attaching the document should make sure that the door or conspicuous place belongs to the person's residence, and that the document will be readily seen by the person entering or leaving the residence. A conspicuous place is one that is clearly visible and likely to attract notice or attention. **Placing a copy of the document under the door is not recognized by the Legislation. (emphasis added)**

Given that the method of service chosen by the landlord to serve the Notice to End Tenancy is not recognized by the legislation (by sliding it under the tenant's door), I find the tenant was not properly served with it. For this reason, I dismiss the Notice to End Tenancy issued on January 16, 2020. I make no findings on whether the landlord had sufficient cause to issue the Notice.

Settlement Reached

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 discussed the issues between them, turned their minds to compromise and achieved a resolution of the monetary aspect of the dispute.

Both parties agreed to the following final and binding settlement of the issue of the landlord's application for monetary compensation pursuant to section 67 currently under dispute at this time:

1. The tenant agrees to pay the landlord \$1,673.47 in full and final settlement of the landlord's monetary claim.

Both parties testified at the hearing that they understood and agreed to the above term, free of any duress or coercion. Both parties testified that they understood and agreed that the above term is legal, final, binding and enforceable, which settles this aspect of the dispute.

In order to implement the above settlement reached between the parties and as discussed with them at the hearing, I issue a monetary Order in the landlord's favour in the amount of \$1,673.47. The landlord continues to hold the tenant's security deposit in the amount of \$276.50. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain the entire security deposit in partial satisfaction of the monetary claim. The landlord is entitled to a monetary order in the amount of \$1,396.97.

Conclusion

I issue a monetary order in the landlord's favour in the amount of **\$1,396.97**.

The landlord's One Month Notice to End Tenancy for Cause is cancelled and of no further force or effect. The tenancy will continue until ended in accordance with the *Act*.

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: March 20, 2020

Residential Tenancy Branch