



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

CNC, CNL-4M, MNDCT, PSF, RR, LAT, OLC, LRE

Introduction:

This hearing was convened in response to two Applications for Dispute Resolution filed by the Tenant.

In one Application for Dispute Resolution, the Tenant applied to cancel a Four Month Notice to End Tenancy, for a monetary Order for money owed or compensation for damage or loss, for an Order requiring the Landlord to comply with the *Residential Tenancy Act (Act)* or the tenancy agreement, and for an Order restricting or setting conditions on the Landlord's right to enter the rental unit.

In the other Application for Dispute Resolution, the Tenant applied to cancel a One Month Notice to End Tenancy for Cause, for an Order requiring the Landlord to comply with the *Act* or the tenancy agreement, for an Order restricting or setting conditions on the Landlord's right to enter the rental unit, for an Order requiring the Landlord to provide services or facilities, for authority to change the locks, and for a rent reduction.

The Tenant stated that on February 21, 2020 the first Dispute Resolution Package was sent to the Landlord, via registered mail, at the service address noted on the Application. The Tenant submitted Canada Post documentation that shows something was mailed on February 21, 2020. The Landlord acknowledged receipt of this Dispute Resolution Package.

The Tenant stated that on March 18, 2020 the second Dispute Resolution Package was sent to the Landlord, via registered mail, at the service address noted on the Application. The Tenant submitted Canada Post documentation that shows something was mailed on March 18, 2020. The Landlord acknowledged receipt of this Dispute Resolution Package.

On February 29, 2020 the Tenant submitted a copy of a Four Month Notice to End Tenancy to the Residential Tenancy Branch. On March 06, 2020 the Tenant submitted a copy of a One Month Notice to End Tenancy for Cause to the Residential Tenancy Branch. The Tenant stated that these Notices were served to the Landlord, via registered mail, on March 12, 2020. The Tenant submitted Canada Post documentation that shows something was mailed on March 12, 2020.

The Landlord denied receiving the Four Month Notice to End Tenancy and the One Month Notice to End Tenancy for Cause as evidence for these proceedings. The Landlord stated that he received evidence from the Tenant, via registered mail, on two separate occasions in March of 2020. He stated that the same three documents were served to him in those two packages, neither of which was the Four Month Notice to End Tenancy or the One Month Notice to End Tenancy for Cause.

I find that the Tenant has submitted insufficient evidence to establish that the Four Month Notice to End Tenancy or the One Month Notice to End Tenancy for Cause was served to the Landlord as evidence for these proceedings. Although there is evidence to support the Tenant's submission that documents were mailed to the Landlord on March 12, 2020, there is insufficient evidence to support the Tenant's submission that the Four Month Notice to End Tenancy and the One Month Notice to End Tenancy for Cause were mailed on that date or to refute the Landlord's submission that these documents were not received in the evidence packages mailed to him. As there is insufficient evidence to establish that the Four Month Notice to End Tenancy or the One Month Notice to End Tenancy for Cause was served to the Landlord as evidence, they were not accepted as evidence for these proceedings.

In April of 2020 the Tenant submitted a copy of a Notice of Development Variance Permit, a certificate of electrical inspection, 2 municipal compliance Orders, a notice to enter from the Landlord, two RCMP business cards, a letter from the Tenant's advocate, email messages between the Tenant and the Residential Tenancy Branch, a request to join Applications for Dispute Resolution, a copy of an Residential Tenancy Branch decision relating to a different Application for Dispute Resolution involving the two parties, a photograph of a home, a video of someone at the door of a different home, a text message that is dated November 03, 2017 in the top left corner, an email dated April 23, 2020, and a document from Health Canada relating to medical use of cannabis. The Tenant stated that this evidence was delivered to the Landlord's home and by text message on April 17, 2020.

The Tenant stated that he submitted a video of evidence being delivered to the Landlord's home.

The Landlord stated that he never received any evidence from the Tenant at his home or by text message in April of 2020. He stated that he received evidence from the Tenant, via registered mail, on two separate occasions in March of 2020. He stated that the same three documents were served to him in those two packages. He stated that one of the documents he received in those packages was the letter from the Tenant's advocate, which was submitted to the Residential Tenancy Branch in April of 2020. As the Landlord acknowledged receiving this one document, it was accepted as evidence for these proceedings.

Legal Counsel for the Landlord described the other two documents that the Landlord contends were received in March of 2020, neither of which was submitted to the Residential Tenancy Branch. As these two documents were not submitted to the Residential Tenancy Branch, they were not accepted as evidence for these proceedings.

I find that there is insufficient evidence to corroborate the Tenant's testimony that documents were delivered to the Landlord's house or by text message on April 17, 2020. I have viewed the video of evidence allegedly being delivered to the Landlord's home on April 17, 2020, simply to determine if it supports the Tenant's submission that evidence was served. Although this poor quality video shows someone standing at the front door of a residence, with what appears to be documents in hand, it does not establish that the documents were left there. I therefore find that this is not sufficient to establish that documents were served to the Landlord on April 17, 2020.

As the Tenant has submitted insufficient evidence to establish that most of the documents the Tenant submitted to the Residential Tenancy Branch in April of 2020 were received by the Landlord, most of those documents were not accepted as evidence for these proceedings. The only evidence accepted as evidence for these proceedings is the letter from the Tenant's advocate, which the Landlord acknowledged receiving.

The Tenant was advised that although most of his documentary evidence was not accepted as evidence for these proceedings, he would be able to testify about any of the documents he submitted to the Residential Tenancy Branch. The Tenant was advised that the hearing would proceed and that he could request an adjournment at any point in the hearing, for the purposes of re-serving his evidence, if he believed it

was necessary for me to view any the evidence the Landlord did not acknowledge was receiving.

The Landlord and the Tenant reached a settlement agreement prior to discussing any of the claims being made by the Tenant. As such, the parties did not discuss any of the evidence submitted by the Tenant; I did not consider the evidence submitted by the Tenant (with the exception of the video); and the Tenant did not request an adjournment for the purposes of re-serving his evidence.

The Agent for the Landlord stated that he believes he submitted a copy of the condition inspection report to the Residential Tenancy Branch as evidence for these proceedings. He stated that he did not serve this document to the Tenant as evidence for these proceedings. As this document was not served to the Tenant was evidence for these proceedings, it was not accepted as evidence for these proceedings.

All parties in attendance at the hearing, with the exception of legal counsel, affirmed that they would speak the truth, the whole truth, and nothing but the truth at these proceedings.

Issue(s) to be Decided:

Should the One Month Notice to End Tenancy for Cause be set aside?

Should the Four Month Notice to End Tenancy be set aside?

Is there a need to issue an Order requiring the Landlord to comply with the *Act* or the tenancy agreement?

Is there a need to issue an Order restricting or setting conditions on the Landlord's right to enter the rental unit?

Is there a need to issue an Order requiring the Landlord to provide services or facilities?

Should the Tenant be granted authority to change the locks?

Is the Tenant entitled to compensation in relation to the Landlord's attempts to end this tenancy?

Background and Evidence:

Prior to discussing any of the issues in dispute in either Application for Dispute Resolution, the Tenant and the Landlord mutually agreed to resolve all issues in dispute in both Applications for Dispute Resolution under the following terms:

- The tenancy will end, by mutual agreement, on July 31, 2020;
- The Tenant will not be required to pay rent for two months;

- \$1,500.00 will be returned to the Tenant on the last day of the tenancy, providing the rental unit is left in reasonable condition; and
- The \$1,500.00 payment represents the return of the security deposit and pet damage deposit the Tenant submits was paid.

This agreement was summarized for the parties on at least two occasions. The Landlord and the Tenant both clearly indicated that they agreed to resolve this dispute under these terms.

The Landlord and the Tenant each acknowledged that they understand they were not required to enter into this agreement and that they understood the agreement was final and binding.

Analysis:

I find that all issues in dispute in both of these Applications for Dispute Resolution have been settled in accordance with the aforementioned terms.

On the basis of the settlement agreement, the Landlord will be granted an Order of Possession, which is effective on July 31, 2020.

The Tenant is not being granted a monetary Order for \$1,500.00, as the agreement to repay the security/pet damage deposit is contingent on the rental unit being left in reasonable condition.

Conclusion:

These Applications for Dispute Resolution have been settled in accordance with the aforementioned settlement agreement.

I grant the Landlord an Order of Possession that is effective **at 1:00 p.m. on July 31, 2020.**

It is my understanding that due to the current health crisis in British Columbia, the Supreme Court of British Columbia is not enforcing most Orders of Possession. This does not affect the validity of this Order of Possession. In the event the Tenant is able to safely move out of the rental unit during this health crisis by the effective date of this Order of Possession, the Tenant should do so.

In the event the Tenant does not vacate the rental unit by the effective date of the Order

of Possession, the Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court whenever that Court deems it appropriate.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: May 05, 2020

Residential Tenancy Branch