



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

For the tenants: OLC RP LRE LAT
For the landlord: MNDCL FFL

Introduction

This hearing was convened as a result of an Application for Dispute Resolution (application) by both parties seeking remedy under the *Residential Tenancy Act* (the Act). The tenants applied for an order directing the landlord to comply with the Act, regulation or tenancy agreement, to make regular repairs to the unit, site or property, for an order to suspend or set conditions on the landlord's right to enter the rental unit, and for authorization to change the rental unit keys. The landlord applied for a monetary order the recovery of the cost of the filing fee and for an order directing the tenants to remove a large white cube van from the rental property.

On June 9, 2020, the landlord attended the teleconference hearing and after the 10 minute waiting period, as the tenants failed to attend the hearing scheduled for 11:00 a.m. Pacific Time, the tenants' application was dismissed without leave to reapply pursuant to Residential Tenancy Branch (RTB) Rules of Procedure (Rules) 7.3 as the tenants failed to attend the hearing at the scheduled start of the hearing. Later in the hearing, the tenant called into the hearing and was advised that they could participate in the landlords' application; however, the tenants' application had already been dismissed without leave to reapply. An Interim Decision dated June 10, 2020 (Interim Decision) was issued, which should be read in conjunction with this decision.

The hearing process was explained to the parties and an opportunity was given to ask questions about the hearing process. Thereafter the parties gave affirmed testimony, were provided the opportunity to present their evidence orally and in documentary form prior to the hearing and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Several orders were made in the Interim Decision, some of which will be referred to below.

Preliminary and Procedural Matter

The parties confirmed their email address during the hearing and stated that they understood that the decision would be emailed to them.

Issues to be Decided

- Is the landlord entitled to an order directing the removal of a large cube van from the rental property under the Act?
- If yes, is the landlord entitled to the recovery of the cost of the filing fee under the Act?

Background and Evidence

The parties agree that a month to month tenancy began in the middle of November 2019; however, the original tenancy agreement has been lost. The parties agreed that monthly rent in the amount of \$1,000.00 is due on the first day of each month. The parties agreed that a security deposit of \$500.00 was paid by the tenants at the start of the tenancy, which the landlord continues to hold.

The landlord testified that they received a letter from the local government bylaw office dated May 15, 2020, (bylaw letter) which was submitted in evidence. In the bylaw letter, the bylaw officer writes in part that they attended the property on May 12, 2020 and was advised by the tenant that they could not enter the property and as a result, the bylaw officer took pictures from outside the property boundary and made the following orders:

1. The property must be cleaned up so as not be Unsightly.
2. Any vehicles on the property must have valid insurance.

As the tenant failed to upload any supporting evidence regarding insurance of the large white cube van on the property at the landlord stated is blocking a longstanding thoroughfare, the tenant replied that they had the large white cube van insured and had

a letter from a city official stating that their large white cube van is permitted on the rental property.

Therefore, this matter was adjourned for the production of those records by the tenant and in the Interim Decision, I made the following order:

I ORDER the tenant to upload two additional documents as follows and no later than **June 23, 2020 at 5:00 p.m. Pacific Time**:

- A. Letter from city official stating that the large cube van is permitted on the property.
- B. Proof of insurance of the large cube van.

The tenant was also cautioned on June 9, 2020, regarding the following:

If the tenant fails to comply with my orders, the large cube van will be ordered off of the property at the reconvened hearing as stated in the hearing.

On July 6, 2020, the hearing reconvened and the parties were advised that the tenant failed to upload the two documents as required. The tenant stated that they attempted to have the documents uploaded on June 23, 2020 at a Service BC office; however, they did not have success. The parties were advised that according to the audit notes of these files, there was no indication from Service BC that the tenant attempted to upload any documents on or before June 23, 2020 as ordered, and in fact, the system was closed to any new documents as per my order as of June 24, 2020, which was after the deadline in my order noted above.

Analysis

Based on the documentary evidence and the oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

Firstly, I find the tenants have failed to comply with my lawful order and have not provided any documentary proof to suggest the large white cube van is either insured or permitted on the rental property by city officials.

Secondly, I accept the landlord's testimony that the large white cube van is uninsured based on the photo evidence and is blocking a thoroughfare on the rental property.

Accordingly, given the bylaw letter before me, I find the landlord has met the burden of proof that the large cube van remains uninsured on the property and that there is no

authority from a city official for the large cube van to remain on the rental property. Therefore, I make the following order pursuant to section 62(3) of the Act.

I ORDER the tenant to remove at the sole expense of the tenants, the large white cube van from the rental property no later than **July 13, 2020 at 5:00 p.m. Pacific Time.**

Failure to comply with my order could result in the landlord issuing a 1 Month Notice to End Tenancy for Cause (1 Month Notice) for failure to comply with a government order.

As the landlord's claim was successful, I grant the landlord the recovery of their filing fee in the amount of **\$100.00** pursuant to section 72 of the Act. I authorize the landlord pursuant to sections 38, 67 and 72 of the Act to retain \$100.00 from the tenants' security deposit in full satisfaction of the filing fee. I find that the tenants' security deposit is now \$400.00 as a result, effective immediately.

Conclusion

The tenants' application was dismissed without leave to reapply for the reason stated above.

The landlord's application is successful. The tenant has been ordered as indicated above. Failure to comply with my order could result in the landlord issuing a 1 Month Notice under the Act.

The landlord is granted \$100.00 for the filing fee, which I have deducted from the security deposit noted above. This decision will be emailed to both parties.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: July 6, 2020

Residential Tenancy Branch