



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI, CNL, MNDCT, OLC, RR, PSF, RR, FFT

Introduction

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

- cancellation of the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property (the 2 Month Notice) pursuant to section 49;
- a monetary order for compensation for losses or other money owed under the *Act*, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to make repairs to the rental unit pursuant to section 32;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order to the landlord to provide services or facilities required by law pursuant to section 65;
- an order regarding a disputed additional rent increase pursuant to section 43; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their affirmed testimony, to make submissions, to call witnesses and to cross-examine one another.

As the tenant confirmed that they were handed the first 2 Month Notice by the landlord on August 21, 2020, I find that the tenant was duly served with this Notice in accordance with section 88 of the *Act*. The tenant also confirmed that they were handed a second 2 Month Notice by the landlord on September 21, 2020. This second 2 Month Notice was also duly served in accordance with section 88 of the *Act*.

As the landlord confirmed that the tenant handed them a copy of the tenant's dispute resolution hearing package in early September 2020, I find that the landlord was duly served with this package in accordance with section 89 of the *Act*. Since the tenant confirmed that they received a copy of the landlord's written evidence in sufficient time to review that documentation, I find that the landlord's written evidence was served in accordance with section 88 of the *Act*.

Although the landlord confirmed that the tenant handed them digital evidence on a USB, there was no record of this digital evidence on the Residential Tenancy Branch's (the RTB's) online portal for such evidence. The tenant said that they handed a copy of this digital evidence to the RTB's local office in their community. I noted that the RTB does not have an office in that community. The tenant corrected their statement, stating that it was provided to the local Service BC office, which agreed to forward this information to the RTB on the tenant's behalf.

Issues(s) to be Decided

Should the landlord's 2 Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession? Should any other orders be issued with respect to this tenancy?

Preliminary Matters- Application to Cancel the 2 Month Notice

At the commencement of this hearing, the landlord noted that they had provided the second 2 Month Notice to the tenant, seeking an end to this tenancy by November 30, 2020, instead of September 30, 2020, the incorrect effective date identified on the first 2 Month Notice. The tenant's principal objection to the original 2 Month Notice was the incorrect effective date identified on that Notice.

The tenant testified that they had not applied to cancel the second 2 Month Notice and were in the process of attempting to secure accommodations elsewhere by November 30, 2020. Since they were not disputing the 2 Month Notice, only the date identified on the original 2 Month Notice, the tenant was no longer objecting to the landlord's issuance of the 2 Month Notice.

Although the landlord requested an end to this tenancy because their 25 year old daughter is planning to move into the rental unit, the landlord indicated that they may be willing to allow the tenant to stay in the premises for an extra week or two in the event that the tenant cannot find accommodations by the end of November 2020.

Background and Evidence

The parties agreed that many of the items listed on the tenant's application will become moot points when this tenancy ends on November 30, 2020. However, many monetary issues remain outstanding with respect to this tenancy. For example, the landlord continues to hold the \$550.00 security deposit for this tenancy and the landlord maintains that the tenant has only paid one-half of the required \$1,250.00 in rent since April 1, 2020. By contrast, the tenant's claim for a monetary award of \$1,249.99 includes allowances for labour conducted by the tenant on the rental property for which the tenant has not yet been compensated by the landlord. Although the landlord agreed that they have not yet compensated the tenant for all of the expenses that the tenant has incurred, the landlord maintained that the tenant has not submitted any invoices for the period from January 1, 2020 until the present.

I also noted that after issuing the 2 Month Notice, the landlord is responsible for reimbursing the tenant the equivalent of one full month's rent, usually rent that is forgiven for the last month of the tenancy.

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 on November 30, 2020, by which time the tenant will have surrendered vacant possession of the rental unit to the landlord.
2. The tenant agreed to withdraw the remainder of their application for dispute resolution in order to enable them to meet with the landlord over the upcoming week to determine if they could resolve the monetary issues in dispute with respect to this tenancy.
3. Both parties agreed that in the event that they could not resolve the monetary issues with respect to this tenancy that they would file new applications for dispute resolution with the Residential Tenancy Branch.

4. Both parties made these commitments and entered into the above noted agreement 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.

Since the landlord's original 2 Month Notice identified an incorrect effective date for the end of this tenancy, I am satisfied that the tenant had reasonable grounds to file their application to cancel the first 2 Month Notice. On that basis, I allow the tenant's application to recover their \$100.00 filing fee from the landlord. Since there is undisputed evidence that outstanding rent remains owing for this tenancy, I allow the tenant to recover the \$100.00 filing fee by deducting it from the rent money owed to the landlord.

The remainder of the tenant's application is withdrawn. The tenant remains at liberty to reapply for the monetary issues outstanding in the event that the discussions between the landlord and the tenant are unable to achieve a resolution of the monetary issues regarding this tenancy.

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: October 15, 2020

Residential Tenancy Branch