



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, CNC-MT, FFT
 OPC, MNDL-S, FFL

Introduction

This hearing was scheduled to convene at 9:30 a.m. on September 19, 2023 concerning applications made by the tenants and by the landlords.

The tenants have applied for an order cancelling a notice to end the tenancy for unpaid rent or utilities; an order cancelling a notice to end the tenancy for cause; an order permitting more time than prescribed to dispute the notice to end the tenancy for cause; and to recover the filing fee from the landlords for the cost of the application.

The landlords have applied for an order of possession for cause; a monetary order for damage to the rental unit or property; an order permitting the landlords to keep all or part of the security deposit; and to recover the filing fee from the tenants.

One of the landlords attended the hearing with an Articled Student. One of the named tenants (AG) was represented by an Articled Student.

At the commencement of the hearing, the parties agreed that the tenant (AG) vacated the rental unit in March, 2023, and the parties agreed that the claim as against that tenant should be dismissed, and I so order.

The landlord gave affirmed testimony, however the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony, and none of the other tenants joined the call. Therefore, I dismiss the tenants' application in its entirety without leave to reapply.

Issue(s) to be Decided

The issues remaining to be decided are:

- Have the landlords established that the notices to end the tenancy were issued in accordance with the *Residential Tenancy Act*?
- Should the landlords obtain a monetary order for damage to the rental unit or property?
- Should the landlords be permitted to keep all or part of the security deposit?

Background and Evidence

The landlord testified that this fixed-term tenancy began on February 1, 2021 and was to expire on January 31, 2022, but was extended to the end of September, 2023. Rent in the amount of \$2,900.00 is payable on the 1st day of each month, and there are currently no rental arrears. At the outset of the tenancy the landlords collected a security deposit from the tenants in the amount of \$1,450.00 which is still held in trust by the landlords, and no pet damage deposit was collected. The rental unit is a single family home, and a copy of the tenancy agreement has been provided as evidence for this hearing.

The landlord further testified that on July 3, 2023 the tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities by personally handing it to one of the tenants. A copy of the Notice has been provided for this hearing, and it is dated July 3, 2023 and contains an effective date of vacancy of July 15, 2023 for unpaid rent in the amount of \$1,450.00 that was due on July 1, 2023. The tenants paid the rent on July 13, 2023.

The landlords also served the tenants with a One Month Notice to End Tenancy For Cause and a copy has been provided for this hearing. It is dated June 7, 2023 and contains an effective date of vacancy of July 15, 2023. None of the reasons have been selected on the form, but a document entitled "NOTICE OF BREACH AND NON-COMPLIANCE WITH THE CONDITIONS OF THE TENANCY AGREEMENT," is attached, which contains several issues regarding breaches of the tenancy agreement.

The landlords have also provided a copy of another One Month Notice to End Tenancy For Cause. It is dated July 7, 2023 and contains an effective date of vacancy of July 15, 2023, but that was not served to the tenants.

Analysis

The *Residential Tenancy Act* states that where I dismiss a tenant's application to cancel a notice to end a tenancy given by a landlord, I must grant an order of possession in

favour of the landlord, so long as the notice given is in the approved form. I have reviewed the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the Notice), and I find that it is in the approved form and contains information required by the *Act*.

The landlord testified that the Notice was served personally on July 3, 2023 and rent was paid on the 13th. The law states that a tenant must pay the rent in full within 5 days of receiving the Notice. Considering that the tenants did not pay the rent in full within 5 days, and having dismissed the tenants' application, I grant an order of possession in favour of the landlords. Since the effective date of vacancy has passed, I grant the order of possession effective on 2 days notice to the tenants. The tenants must be served with the order of possession, which may be filed in the Supreme Court of British Columbia for enforcement.

Since the tenancy has not yet ended, I dismiss the landlords' application for a monetary order for damage or loss, with leave to reapply.

Since the landlords have been partially successful with the application, the landlords are also entitled to recover the filing fee from the tenants, and I order that the landlords retain \$100.00 from the security deposit held in trust as full recovery of the filing fee.

Conclusion

For the reasons set out above, the tenants' application is hereby dismissed in its entirety without leave to reapply.

By consent, the landlords' application as against the tenant (AG) is hereby dismissed without leave to reapply.

The landlords' application for a monetary order for damage to the rental unit or property is hereby dismissed with leave to reapply.

I hereby grant an order of possession in favour of the landlords effective on 2 days notice to the tenants.

I hereby order the landlords to keep \$100.00 of the security deposit in full satisfaction of the claim for recovery of the filing fee.

This order is final and binding and may be enforced.

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: September 19, 2023

Residential Tenancy Branch