



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Fireside Property Group Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNC, ERP / OPC

Introduction

This hearing was scheduled in response to the tenants' application for cancellation of a notice to end tenancy for cause / and an order instructing the landlord to make emergency repairs for health or safety reasons. Both parties attended and gave affirmed testimony. The landlord's agent orally confirmed that the landlord seeks an order of possession should the tenants' application for cancellation of the notice fail.

Issue(s) to be Decided

Whether either party is entitled to any of the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement, tenancy began on October 1, 2011. Monthly rent of \$600.00 is due and payable in advance on the first day of each month, and a security deposit of \$300.00 was collected.

The landlord issued a 1 month notice to end tenancy for cause dated January 28, 2013. The notice was served in-person on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenants must vacate the unit is March 1, 2013. Reasons shown on the notice for its issuance total seven. The tenants filed an application to dispute the notice on February 12, 2013.

Analysis

Based on the documentary evidence and testimony, I find that the tenants were personally served on January 28, 2013 with a 1 month notice to end tenancy for cause, also dated January 28, 2013, and issued pursuant to section 47 of the Act which addresses **Landlord's notice: cause**. Section 47(4) of the Act provides that the

tenants had 10 days to file an application to dispute the notice following its receipt on January 28, 2013. I find that as the tenants filed their application on February 12, 2013, the application was not filed within the time permitted. Further, the tenants have not applied for more time to make an application to cancel a notice to end tenancy.

Section 55 of the Act addresses **Order of possession for the landlord**, and provides in part as follows:

55(1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,

- (a) the landlord makes an oral request for an order of possession, and
- (b) the director dismisses the tenant's application or upholds the landlord's notice.

Following from all the above, the tenants' application for cancellation of the notice is hereby dismissed, and I find that the landlord has established entitlement to an **order of possession**.

In relation to the tenants' request for an order instructing the landlord to make certain emergency repairs, the tenants claimed there is a problem with mould in the unit. In response, the landlord acknowledged that the unit was in need of thorough cleaning and undertook to complete such cleaning immediately following the end of this tenancy. In the result, I do not consider that issuance of an order is required.

Conclusion

The tenants' application is hereby dismissed in its entirety.

I hereby issue an **order of possession** in favour of the landlord effective **two (2) days** after service on the tenants. This order must be served on the tenants. Should the tenants fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

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 08, 2013

Residential Tenancy Branch

