



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Cascadia Apartment Rentals Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPC, OPB / FF
CNC

Introduction

This hearing concerns 2 applications: i) by the landlord for an order of possession / and recovery of the filing fee; and ii) by the tenant for cancellation of a notice to end tenancy for cause. The hearing was scheduled to commence at 11:30 a.m. on August 11, 2014. While hearings are typically held by way of telephone conference call, at the tenant's request this hearing was scheduled to take place in-person at the Branch office in Burnaby. The landlord's agents were present at the scheduled start time of the hearing and gave affirmed testimony. However, by 12:00 p.m. (noon) the tenant had still not appeared and the hearing was concluded.

The landlord's agents testified that the landlord had been served with the tenant's application for dispute resolution and notice of hearing (the "hearing package"). The landlord's agents also testified that the landlord's hearing package had been personally served on the tenant on or about August 03, 2014.

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

While the written tenancy agreement in evidence documents that the tenancy began on April 01, 2011, the landlord's agents testified that it actually began 1 year earlier on April 01, 2010. Monthly rent is due and payable in advance on the first day of each month. Rent at the outset of tenancy was \$800.00, however, the current monthly rent is \$850.00. The tenancy agreement documents that a security deposit of \$400.00 was collected on March 12, 2010.

Pursuant to section 47 of the Act which speaks to **Landlord's notice: cause**, the landlord issued a 1 month notice to end tenancy dated June 10, 2014. 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 tenant must vacate the unit is July 31, 2014, and reasons identified on the notice in support of its issuance are as follows:

Tenant has caused extraordinary damage to the unit/site or property/park

Tenant has assigned or sublet the rental unit/site without landlord's written consent

The tenant filed an application to dispute the notice on June 13, 2014.

After recognizing an error in the grounds identified on the above notice, the landlord issued a second 1 month notice dated June 17, 2014. This second notice was served in-person on the tenant on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is July 31, 2014. Reasons identified on the notice in support of its issuance are as follows:

Tenant or a person permitted on the property by the tenant has:

- put the landlord's property at significant risk

Tenant has caused extraordinary damage to the unit/site or property/park

Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so

In summary, the landlord's issuance of the notice arises broadly out of concerns related to the tenant's persistent storage of an overabundance of boxes full with miscellaneous possessions within the unit, despite repeated notice to remove them. Further, the notice arises out of an occasion on June 09, 2014, when water dripping from the tap into the tenant's sink was permitted to overflow into the unit causing significant damage; the water was prevented from draining from the sink by a lid from a yogurt container which had been placed over the drain and apparently left over a period of many days.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, forms and more can be accessed via the website: www.rto.gov.bc.ca

Section 47 of the Act provides in part as follows:

47(1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

(d) the tenant or a person permitted on the residential property by the tenant has

(iii) put the landlord's property at significant risk;

(f) the tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to a rental unit or residential property;

(h) the tenant

(i) has failed to comply with a material term, and

(ii) has not corrected the situation within a reasonable time after the landlord gives written notice to do so;

Based on the affirmed / undisputed testimony of the landlord's agents, and the documentary evidence which includes, but is not limited to, photographs taken within the unit, and letters to the tenant from the landlord by date of May 17, 2013, September 13, 2013, and June 11, 2014, I find that the landlord has met the burden of proving entitlement to an **order of possession** on the basis of the statutory grounds set out above. Accordingly, the tenant's application is hereby dismissed.

As the landlord has succeeded in obtaining the order of possession sought, I find that the landlord has also established entitlement to recovery of the **\$50.00** filing fee. I order that the landlord may recover the filing fee by way of withholding that amount from the tenant's security deposit at such time as the tenancy ends.

Conclusion

The tenant's application is hereby dismissed.

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenant. This order must be served on the tenant. Should the tenant 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.

I hereby order that the landlord may withhold **\$50.00** from the tenant's security deposit in order to recover the filing fee.

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: August 11, 2014

Residential Tenancy Branch

