



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MT. SEYMOUR LIONS HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

This decision was amended on December 12, 2016, at the request of the Tenant, to clarify the settlement agreement reached by the parties. Amendments have been underlined and/or crossed out for clarity.

This decision was again amended on January 03, 2017, at the request of the Landlord. The decision on December 12, 2016 was amended to reflect what I believed to be the spirit of the settlement agreement made at the hearing on November 16, 2016. As the Landlord does not agree that the amendment reflects the spirit of that agreement, the settlement agreement must remain as worded in my notes. For clarity, the original settlement agreement and the amended settlement agreement have been removed and the recorded settlement agreement is the one that most closely reflects the wording of the agreement reached at the hearing, as reflected by my notes (which have been attached to the file).

In the event that the recorded settlement agreement does not accurately reflect the settlement agreement reached on November 16, 2016, either party may request that this hearing be reconvened, at which time I will consider the merits of the original Applications for Dispute Resolution. This request must be made in writing, no later than January 31, 2017 and a copy of the request must be served to the other party no later than January 31, 2017.

Dispute Codes:

CNC, O, FF

Introduction

This hearing was scheduled in response to cross applications.

The Landlord filed an Application for Dispute Resolution, in which the Landlord applied for an Order of Possession; to recover the fee for filing an Application for Dispute Resolution, and for "other".

The Agent for the Landlord stated that on October 05, 2016 the Landlord's Application for Dispute Resolution, the Notice of Hearing, and evidence that the Landlord submitted to the Residential Tenancy Branch on October 05, 2016 were sent to the Tenant, via registered mail. The Tenant acknowledged receipt of these documents and they were accepted as evidence for these proceedings.

The Tenant filed an Application for Dispute Resolution, in which the Tenant applied for "other". It is clear from information on the Application that she is seeking to cancel a Notice to End Tenancy.

The Tenant stated that on September 21, 2016 or September 22, 2016 the Tenant's Application for Dispute Resolution and the Notice of Hearing were sent to the Landlord, via registered mail. The Agent for the Landlord acknowledged receipt of these documents.

On September 23, 2016 the Tenant appears to have submitted 12 pages of evidence to the Residential Tenancy Branch. The Tenant stated that she does not recall submitting this evidence and she does not know if she served it to the Landlord. The Agent for the Landlord stated that these documents were served with the Application for Dispute Resolution. As the Landlord acknowledges receipt of the documents, they were accepted as evidence for these proceedings.

On November 01, 2016 the Tenant submitted 8 pages of evidence to the Residential Tenancy Branch. The Advocate for the Tenant stated that this evidence was sent to the Landlord, via fax, on November 01, 2016. The Agent for the Landlord acknowledged receipt of the documents and they were accepted as evidence for these proceedings.

Issue(s) to be Decided

Does the Tenant have the right to withdraw a notice to end tenancy and, if not, should the Landlord be granted an Order of Possession?

Background and Evidence

At the outset of the hearing the parties indicated that they wished to reach a settlement agreement in regards to the issues in dispute at these proceedings.

The Landlord and the Tenant mutually agreed to settle this dispute under the following terms:

- ~~the Landlord will receive an Order of Possession that is effective on March 31, 2017;~~
- ~~the Landlord will provide the Tenant with written clarification of the Landlord's concerns regarding the Tenant's behaviour in regards to the tenancy by November 30, 2016;~~
- ~~in the event the Landlord is not satisfied that the tenancy should continue because the Tenant has not satisfied the concerns expressed in the aforementioned written document, the Landlord will serve the Tenant with the Order of Possession by February 10, 2017; and~~
- ~~the tenancy shall continue if the Landlord has not served the Order of Possession by February 10, 2017. and~~
- ~~the Landlord will provide the Tenant with written clarification of the Landlord's concerns regarding the Tenant's behaviour in regards to the tenancy by November 30, 2016.~~
- the Landlord will receive an Order of Possession that is effective on March 31, 2017;
- if the Landlord is not satisfied that the tenancy should continue the Landlord will serve the Order of Possession to the Tenant by February 10, 2017;

- if the Order of Possession is not served by February 10, 2017 the tenancy will continue;
- if the Order of Possession is served by February 10, 2017, the tenancy will end on March 31, 2017;
- the Landlord will advise the Tenant, in writing, of any concerns the Landlord has regarding the tenancy by November 30, 2016.

Analysis

The parties have resolved this disputed in accordance with the aforementioned terms.

Conclusion

The parties have reached a settlement agreement.

On the basis of the settlement agreement I grant the Landlord an Order of Possession that is effective on March 31, 2017. In the event the Landlord wishes to enforce this Order of Possession ~~because the Tenant has not satisfied the concerns expressed in the aforementioned written document,~~ it must be served on the Tenant by February 10, 2017, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

This settlement agreement is recorded on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: November 16, 2016

Amended: December 12, 2016

Amended: January 03, 2017

Residential Tenancy Branch