



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNL, RP, MNDC, FF

Introduction:

The Application for Dispute Resolution filed by the Tenant seeks the following:

- a. An order to cancel the two month Notice to End Tenancy dated March 10, 2018
- b. A repair order
- c. A monetary order in the sum of \$5000.
- d. An order to recover the cost of the filing fee.

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. The parties submitted a large number of documents. Most of the documents were submitted after the time limits set out in the Rules. The parties engaged in settlement discussions and reached a settlement on all matters set out in this Application for Dispute Resolution.

I find that the 2 month Notice to End Tenancy was personally served on the Tenants on March 10, 2018. Further I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the landlord as the landlord acknowledged service of the same. With respect to each of the applicant's claims I find as follows:

Issues to be Decided:

The issues to be decided are as follows:

- a. Whether the tenants are entitled to an order cancelling the two month Notice to End Tenancy dated March 10, 2018 and setting the end of tenancy for May 31, 2018?
- b. Whether the tenants are entitled to a repair order?
- c. Where the tenants are entitled to a monetary order and if so how much?
- d. Whether the tenants are entitled to recover the cost of the filing fee?

Background and Evidence:

The tenant TDJ moved into the rental unit in 2014 but vacated in the summer of 2015. She subsequently re-rented the rental unit around Christmas 2015 and has live in the rental unit since then. The present rent is \$940 per month payable in advance on the first day of each month. The tenants did not pay a security deposit.

The landlord testified there are three rental units in the rental property. The City of Vancouver has told him only two rental units are permitted. It is the intention of the landlord to

decommission this rental unit and subsequently renovate the other two units once permits have been obtained.

Grounds for Termination:

The Notice to End Tenancy relies on section 49 of the Residential Tenancy Act. That section provides as follows:

- The rental unit will be occupied by the landlord or the landlord's spouse or a close family member (father, mother, or child) of the landlord or the landlord's spouse
- The landlord intends to convert the rental unit for use by a caretaker, manager or superintendent of the residential property

Settlement:

The parties reached a settlement and they asked that I record the settlement pursuant to section 63(2) as follows:

- a. The landlord represented for that he intends to use the rental unit for the next 6 months as follow:
 - For the storage of materials for the purpose of upcoming renovations to the rental property
 - For office use
 - The rental unit is being de-commissioned to comply with the demands of the City of Vancouver to reduce the number of rental units in the rental property to two.
- b. Based on the above representation of the landlord the tenant withdraws her application to cancel the 2 month Notice to End Tenancy.
- c. The parties acknowledge that as a result of the withdrawal of the application to cancel the 2 month Notice to End Tenancy the landlord is entitled to an Order of Possession effective May 31, 2018.
- d. The parties acknowledge the Tenants are entitled to rights under section 50 and 51 of the Act including the right to the equivalent of one month rent.
- e. The landlord shall pay to the Tenants the sum of \$3000 in full satisfaction of the Tenants claims set out in this Application for Dispute Resolution including the claim for compensation for problems with the chimney/fireplace, problem with the window/window sills, the removal of a wall between the bedroom, and lack of a roof and ceiling and the tenants release and discharge the landlord from any further claims with respect to these items. The tenant stated she reserves the right to make other claims with other tenants in the building that are unrelated to the above claims and those claims are not part of this settlement.
- f. Payment shall be by certified cheque on or before May 15, 2018.

Application to Cancel the 2 month Notice to End Tenancy::

As a result of the settlement I ordered that the application of the tenants to cancel the 2 month Notice to End Tenancy be dismissed. I order that the tenancy shall end on the May 31, 2018 as set out in the Notice.

Order for Possession:

The Residential Tenancy Act provides that where an arbitrator has dismissed a tenant's application to cancel a Notice to End Tenancy, the arbitrator must grant an Order for Possession. As a result I granted the landlord an Order for Possession effective May 31, 2018.

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

Application for a Monetary Order:

I order that the landlords pay to the Tenants the sum of \$3000 by certified cheque on or before May 15, 2018. All of claims in this application brought by the Tenant are dismissed.

The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

This decision is final and binding on the parties.

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: April 23, 2018

Residential Tenancy Branch