



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FFT

Introduction

The tenant filed an Application for Dispute Resolution on April 20, 2020 seeking an order to cancel the One Month Notice to End Tenancy for cause (the “One Month Notice”). The matter proceeded by way of a hearing pursuant to section 74(2) of the *Residential Tenancy Act* (the “Act”) on May 19, 2020.

In the conference call hearing I explained the process and offered each party the opportunity to ask questions. The tenant and landlords attended the hearing, and each was provided the opportunity to present oral testimony and make submissions during the hearing.

The tenant provided notice of this hearing, and the evidence they prepared in advance to the landlord via email on April 24, 2020. The landlords explained that they received this evidence. The tenant also verified that they received evidence prepared by the landlord for this hearing.

Preliminary Matter

The tenant provided additional evidence and submissions on a claim they are making for monetary compensation. This was within the week prior to the scheduled hearing, up to the day before the hearing. The claim for compensation involves damage to a bedroom furniture set, repairs to a stove, and recovery of 8 months of rent.

By Residential Tenancy Rule of Procedure 2.2, the tenant’s claim is limited to what appears in the Application for Dispute Resolution. The tenant submitted information they deemed as ‘other supporting information’; however, on my examination this

concerns a monetary claim. The tenant did not prepare an amended application as required by Rule of Procedure 4.1.

Rule of Procedure 3.14 provides that “documentary and digital evidence that is intended to be relied on at the hearing must be received by the respondent and the Residential Tenancy Branch directly or through a Service BC Office not less than 14 days before the hearing.”

In fairness to all parties, I apply Rule of Procedure 2.2, 4.1 and 3.17 to ensure that the responding party is not prejudiced and has a chance to review all issues presented to them prior to the scheduled hearing.

In the hearing I informed both parties that the tenant’s claim and evidence for monetary compensation was not an issue I would consider in this hearing. I therefore dismiss this portion of the claim. The tenant remains at liberty to file a new and separate application to address the issue of monetary compensation.

Issue(s) to be Decided

Is the tenant entitled to an order that the landlord cancel or withdraw the One Month Notice, pursuant to section 47 of the *Act* and Ministerial Order M089?

If unsuccessful in this Application, are the landlords entitled to an Order of Possession of the rental unit, pursuant to section 55 of the *Act*?

Is the tenant entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

Background and Evidence

The parties signed the tenancy agreement on April 10, 2019, for the tenancy that started on May 1, 2019. Rent was set at \$3,000.00 per month payable on the 5th day of each month. The tenant paid a security deposit of \$1,500.00 on April 10, 2019.

Each party in attendance confirmed that the landlord issued the One Month Notice on April 16, 2020. The end of tenancy date was stated to be May 31, 2020.

In the hearing the landlord stated that they issued the One Month Notice in error. They referred to the directive issued by the Residential Tenancy Branch preventing a landlord issuing a notice to end tenancy for cause. The notice they issued on April 16, 2020 falls past the effective date of emergency measures enacted by the branch on March 30, 2020. As such, the landlord withdraws the One Month Notice.

I verified with the tenant in the hearing that the landlord is now withdrawing the One Month Notice. They are agreeable to this outcome of the hearing. Therefore, I find this issue is resolved by mutual consent.

Given the tenant had to apply within 10 days of the issuance of the One Month Notice, I find the tenant is entitled to recover the \$100.00 filing fee paid for this application. I authorize the tenant to withhold the amount of \$100.00 from one future rent payment.

Conclusion

For the reasons above, I order that the One Month Notice issued on April 16, 2020 is cancelled and the tenancy remains in full force and effect.

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

Dated: May 20, 2020

Residential Tenancy Branch