



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, FFT

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking to cancel a notice to end tenancy.

The hearing was conducted via teleconference and was attended by the tenant, his advocate, one of the landlords and her agent.

At the outset of the hearing, I questioned the naming of a second person identified as a tenant JP on the tenant's Application. The tenant submitted that at the start of the tenancy in 1990 there had been three tenants identified and that over the years two of those tenants moved out and the tenant had had other roommates move in.

The landlord testified the landlord was never informed that the tenant had new roommates until they received the tenant's Application for Dispute Resolution and as such, they had no idea who JP was and have never known them to be a tenant under this tenancy agreement.

As JP is not named on the tenancy agreement and the landlord was never made aware of this person, I find that JP is not a tenant but rather an occupant. As an occupant, I find that JP is not a party to the tenancy and has no standing to file an application against the landlord. As a result, I have amended the tenant's Application to exclude JP.

I note that because this is an Application for Dispute Resolution submitted by the tenants seeking to cancel a notice to end tenancy issued by the landlord, Section 55 of the *Residential Tenancy Act (Act)* requires I issue an order of possession to the landlord if the landlord's notice complies Section 52 of the *Act* and I either dismiss the tenant's application or uphold the landlord's notice to end tenancy.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to cancel a Two Month Notice to End Tenancy for Landlord's Use of Property and to recover the filing fee from

the landlords for the cost of the Application for Dispute Resolution, pursuant to Sections 49, 67, and 72 of the *Act*.

Should the tenant fail to succeed in cancelling the Two Notice to End Tenancy for Landlord's Use of Property, it must be determined if the landlord is entitled to an order of possession, pursuant to Sections 52 and 55 of the *Act*.

Background and Evidence

During the hearing the parties reached the following settlement:

1. The landlord agrees to cancel the Two Month Notice to End Tenancy for Landlord's Use of Property issued to the tenant on August 31, 2021;
2. The tenant agrees to vacate the rental unit and residential property no later than February 28, 2022; and
3. The landlord agrees to investigate and attempt to repair the rear exterior stairs from the rental unit prior to the end of the tenancy. The tenant understands that he may need to make alternate arrangements to move his belongings out of the rental unit, using the front interior stairs, if the landlord is not able to repair the rear exterior stairs prior to February 28, 2021.

Conclusion

I support of this agreement and by agreement of both parties, I grant the landlords an order of possession effective **February 28, 2022, after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be 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: January 27, 2022

Residential Tenancy Branch