



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

SECOND INTERIM DECISION

Dispute Codes CNC, CNR, MNDC, OLC,, O, OPR, OPC, MNR, MNDC, FF

Introduction

In the first application the tenants seek to cancel a one month Notice to End Tenancy for cause dated November 5, 2014 and a ten day Notice to End Tenancy for unpaid rent or utilities of indeterminate date. They also claim damages and/or compensation of \$10,086.98 for damage or loss under the law or tenancy agreement, a compliance order, an order restricting the landlord's access and other unspecified relief.

In the second application the landlord seeks an order of possession pursuant to either of the two Notices, a monetary award for unpaid rent or utilities and for damages and/or compensation totalling \$18,194.03 for damage or loss under the law or tenancy agreement.

The matter of unpaid rent or utilities owed up to this date has been resolved. The landlord withdraws the ten day Notice to End Tenancy and that portion of her monetary claim seeking unpaid rent or utilities.

Rule 2.3 of the Residential Tenancy Branch "Rules of Procedure" provides that claims made in the application must be related to each other and that arbitrators may use their discretion to dismiss unrelated claims with or without leave to re-apply.

It is my determination that the priority claim regarding the one month Notice and the continuation of this tenancy cannot reasonably be heard in a timely manner in conjunction with the balance of the parties' other claims. The parties were given a priority hearing date in order to address the question of the validity of the Notices. Those other claims are unrelated in that the basis for them rests largely on other facts not germane to the question of whether there are facts which establish the grounds for ending this tenancy as set out in the one month Notice. I exercise my discretion to dismiss all claims of both parties other than the tenants' claim to cancel the one month Notice, the landlord's claim for an order of possession based on that Notice and each

side's claim for recovery of the filing fee. I grant the parties leave to re-apply for those other claims.

In addition, I recommend, and the parties agree and request, that if either or both sides re-apply, any hearing of those other claims be conducted face to face. There are three reasons for this recommendation. The landlord is operating under a disability in that her English is difficult to understand. Her counsel indicates that some translation is required. Counsel is able to translate between English and Mandarin but that is not her role. Secondly, credibility will be the central issue at the hearing of any of those other claims and justice dictates that the arbitrator have the parties testify in person (*Helgren v. Campbell*, 2010, BCSC 1247). Thirdly, there appear to be in excess of 200 pages of inconsistently numbered documentary evidence submitted by the parties and a face to face hearing would be more efficient.

As directed at the January 5, 2015 hearing, I adjourn the tenants' claim to cancel the one month Notice, the landlord's claim for an order of possession and the claims for recovery of filing fees to **Wednesday, January 21, 2015 at 9:00 o'clock in the morning**. The telephone number and passcode for that time and date will be the same as for today's hearing.

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 07, 2015

Residential Tenancy Branch

