



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GREEN MOUNTAIN HOLDINGS LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, AS, FF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the Act) for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 40;
- an order allowing the tenant to assign or sublet because the landlord's permission has been unreasonably withheld pursuant to section 58; and
- authorization to recover its filing fee for this application from the landlord pursuant to section 65.

The tenant's son attended the teleconference hearing. The son was the tenant's power of attorney at the time the application was filed. At some point in late May, the tenant died. The son is named as executor of the tenant's estate but has not yet been appointed as executor by the Court. I accept that the son is competent to act as agent for the tenant's estate notwithstanding that he has not yet officially been appointed as executor.

The corporate landlord was represented by its agents. Both agents confirmed that they had authority to act on behalf of the corporate landlord.

This dispute arises in respect of a 1 Month Notice, which was issued as the tenant had sublet the rental unit without the landlord's consent. The 1 Month Notice was issued 29 April 2015 and set out an effective date of 29 May 2015. The tenant's agent stated that the occupant was moved into the tenant's manufactured home, in effect, to housesit, while the tenant was in a care facility. The tenant's agent stated that, now that his mother has died, he does not want to maintain the manufactured home. The tenant's

agent stated that the occupant was aware of the proceedings today and that the tenant's agent did not foresee any issue with having the occupant vacate the rental unit.

In the course of the hearing the parties were able to reach a negotiated settlement in respect of this dispute.

Analysis

Pursuant to section 56 of the Act, an arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of this dispute.

During this hearing, the parties reached an agreement to settle this dispute under the following final and binding terms:

1. The tenant agreed to withdraw its application.
2. The landlord agreed to withdraw the 1 Month Notice.
3. The tenant agreed to have the occupant of the rental unit vacate that site on or before 20 July 2015.
4. The tenant agreed that IF the occupant does not vacate the site on or before 20 July 2015, the tenant will return possession of the rental unit to the landlord on or before one o'clock in the afternoon on 31 August 2015.

The agent Ms. EK bound the landlord to this settlement agreement. The named executor bound the estate of the tenant to this settlement agreement. Each of the parties stated that they understood the terms of this agreement. Each party agreed that these particulars comprise the full and final settlement of all aspects of this dispute for both parties.

Nothing in this settlement agreement affects the rights and obligations of the tenant and landlord in respect of subletting and assigning the tenancy.

Conclusion

The tenant's application is withdrawn. The landlord's 1 Month Notice is cancelled.

The attached order of possession is to be used by the landlord if the tenant does not act in accordance with the above agreement. The landlord is provided with this order in the

above terms and the landlord should serve the tenant with this order so that it may enforce it in the event that the tenant does not comply with this agreement. Should the tenant fail to comply with this conditional order, this order may be filed and enforced as an order of the Supreme Court of British Columbia.

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

Dated: June 22, 2015

Residential Tenancy Branch