



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPC, MNR, FF (Landlord's Application)
CNC, OLC, ERP, PSF, MT, MNDC (Tenants' Application)

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the "Application") made by the Tenants on May 27, 2015 and by the Landlord on June 30, 2015.

The Tenants applied for the following reasons: to cancel a notice to end tenancy for cause; for more time to cancel a notice to end tenancy; for money owed or compensation for damage or loss under the *Residential Tenancy Act* (the "Act"), regulation or tenancy agreement; for the Landlord to comply with the Act; to make emergency repairs for health and safety reasons; and to provide services or facilities required by law.

The Landlord applied for an Order of Possession based on unpaid rent and cause. The Landlord also applied for a Monetary Order for unpaid rent and to recover the filing fee from the Tenants.

The Tenants and the Landlord appeared for the hearing and provided affirmed testimony as well as documentary evidence prior to the hearing. No issues were raised by the parties in relation to the service of their Applications pursuant to the Act and the service of their evidence pursuant to the Rules of Procedure.

Rule 2.3 of the Rules of Procedures sets out that in the course of the dispute resolution proceeding, Arbitrators may use their discretion to dismiss unrelated claims contained in a single Application with or without leave to re-apply.

The Landlord explained that the notice to end tenancy for cause was based on noise disturbances by the Tenants during the tenancy. The Tenants explained that they were disputing both notices to end tenancy and also electing to deal with other issues for repairs to the rental suite which were not related to the notices to end tenancy.

Therefore, as these matters were unrelated, I determined during the hearing that I would only deal with the Landlords' Application for an Order of Possession and recovery of the filing fee, and the Tenants' Application to cancel the notice to end tenancy. The parties remaining issues on their Application are now severed and both parties were given leave to re-apply for these matters.

Both parties provided extensive evidence and submissions in relation to the service of both notices to end tenancy and on the reasons why the notices were served to the Tenants. Both parties also called a witness to the hearing and each witness was cross examined by the other party on the evidence provided. The presentation of the parties' evidence lasted just under two hours.

At the conclusion of the hearing, I explained to the parties that I would be reserving my decision on the notices to end tenancy to be rendered at a later date. However, I offered the parties an opportunity to settle the matter in respect of the notices to end tenancy through mutual agreement.

The Landlord indicated that as the Tenants had children she was willing to negotiate some time if the Tenants were to agree to vacate the rental unit. The Tenants had a short discussion between themselves and explained that they had planned to vacate the rental unit on September 1, 2015.

Settlement Agreement

Pursuant to Section 63 of the Act, the 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.

The Landlord and Tenants agreed to end the tenancy on **August 31, 2015** at which point the Tenants are required to vacate the rental suite. The Landlord is issued with an Order of Possession effective for August 31, 2015 at 1:00 p.m. This order may be filed and enforced in the Supreme Court of British Columbia as an order of that court if the Tenants fail to vacate the rental unit in accordance with the above agreement. Copies of the order are attached to the Landlords' copy of this decision.

The Tenants are required to pay rent and utilities during the remaining duration of the tenancy and the remedies available to the parties for any breach of the Act in the interim time period are still available and in effect. The parties also agreed that they would make all efforts to mitigate noise disturbances during the interim time.

As the parties decided to mutually agree to end the tenancy, the Landlord's Application to recover the filing fee is dismissed.

The parties are at liberty to reapply for the remaining issues on their Applications not dealt with during this hearing. However, I strongly encouraged the parties to make concerted efforts to resolve the outstanding issues between them before pursuing an Application.

The parties confirmed during the hearing and at the end of the hearing that they had entered into this settlement agreement voluntarily and understood the full nature of the agreement and its meaning.

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: July 15, 2015

Residential Tenancy Branch

