



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, OPB, FF; DRI, CNC, MNDC, MNSD, OPT, AAT, AS, RR, O

Introduction

This hearing was convened in relation to the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- an order of possession for cause and breach of an agreement pursuant to section 55;
- authorization to recover his/her/their/its filing fee for this application from the tenant pursuant to section 72.

This hearing was also convened in relation to the tenants' application pursuant to the Act for:

- an order regarding a disputed additional rent increase pursuant to section 43;
- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to obtain a return of all or a portion of their security deposit pursuant to section 38;
- an order of possession of the rental unit pursuant to section 54;
- authorization to change the locks to the rental unit pursuant to section 70;
- an order allowing the tenant to assign or sublet because the landlord's permission has been unreasonably withheld pursuant to section 65;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65; and
- an "other" remedy.

The tenant SS did not attend this hearing, although I waited until 1115 in order to enable the tenant SS to connect with this teleconference hearing scheduled for 1100. The tenants JD and AW attended. The tenant AW indicated that the tenant SS did not

intend to appear. The tenants JD and AW stated that they were not acting on behalf of SS. The landlord attended.

In the course of the hearing the tenants JD and AW indicated their intent to withdraw from the tenants' application and agree to an order of possession in favour of the landlord. The parties were able to agree to the end to the tenancy.

Analysis

Pursuant to section 63 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 their dispute.

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

1. The tenants JD and AW agreed to withdraw from the tenants' application.
2. The landlord agreed to withdraw his application.
3. The landlord agreed to withdraw the 1 Month Notice.
4. The tenants JD and AW agreed to provide possession of the rental unit to the landlord on or before one o'clock in the afternoon on 31 October 2015.

Each party in attendance stated that he or she understood the terms of this agreement. The parties in attendance agreed that these particulars comprise the full and final settlement of all aspects of their disputes for these parties.

Disposition of Application by SS

The tenant SS did not attend the hearing, although I waited until 1115 in order to enable the applicant to connect with this teleconference hearing scheduled for 1100.

Rule 10.1 of the Rules of Procedure provides that:

10.1 Commencement of the hearing The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may

conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

Accordingly, in the absence of any evidence or submissions from the tenant SS and in the absence of the tenant SS's participation in this hearing, I order the tenant SS's dismissed without leave to reapply. The doctrine of estoppel bars the tenant SS from advancing these claims in any future application before this Branch.

The order of possession agreed to by the tenants AW and JD is enforceable against the tenant SS as the issued order of possession applies to the tenants AW and JD as well as all other occupants.

Conclusion

The tenants AW and JD withdraw from the tenants' application. The remainder of the tenants' application is dismissed without leave to reapply. The landlord'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 vacate the rental premises in accordance with their 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 vacate the premises by the time and date set out in their agreement. Should the tenant fail to comply with this 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: October 14, 2015

Residential Tenancy Branch

