



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, CNL, MNDC

Introduction

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

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- cancellation of the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property (the 2 Month Notice) pursuant to section 49; and
- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67.

The tenant and landlord both attended the hearing.

Circumstances Resulting in Settlement

At the hearing the parties provided evidence that indicated the landlord and tenant may have altered the terms of the tenancy agreement through subsequent oral agreements. In particular, the parties both agree that at some point the landlord and tenant agreed that rent could be paid on the last of month and that monthly rent would be reduced from \$400.00 to \$350.00. The parties provided different evidence as to whether these agreements were ongoing or temporary. I informed the parties that my decision in respect of the 10 Day Notice would necessarily involve consideration of whether the terms of these subsequent oral agreements prevented the landlord from issuing or acting on the 10 Day Notice.

As well, the landlord did not realise that his application for a monetary order was not properly before me. In particular, the landlord had not filed a claim of his own, but instead had filed a monetary order worksheet as evidence in the tenant's claim.

Similarly, I explained to the tenant that his request for repair of a broken door and for compensation for alleged harassment were not properly before me as he had not amended his application in such a way that the landlord had proper notice of the claims. Rather, the tenant had filed a one page submission in which these new claims were mentioned, but no specific compensation or remedies were set out in such a way that the landlord would have notice.

I explained to the parties that a settlement could deal with the issues that were not properly before me for the purposes of adjudication and provide the parties with greater finality today. The parties determined that it would be to both of their advantage to enter into a settlement that settled all outstanding issues between the parties to date.

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 tenant agreed to withdraw his application.
2. The landlord agreed to withdraw the 2 Month Notice.
3. The landlord agreed to withdraw the 10 Day Notice.
4. The tenant agreed to provide possession of the rental unit to the landlord on or before one o'clock in the afternoon on 31 January 2016.
5. The tenant agreed to pay to the landlord \$500.00 for rent for October and November on or before 16 December 2015.
6. The landlord agreed that once he received payment of \$500.00 from the tenant the landlord would take immediate steps to fix the door that was broken.
7. The landlord agreed that no rent would be payable for December 2015 or January 2016.

8. The landlord and tenant agreed that the landlord no longer holds any amount as a security deposit and no amount will be returnable at the end of the tenancy.
9. Both parties agreed that they would act in good faith and respectfully for the remainder of the tenancy.

The parties agreed that these particulars comprise the full and final settlement of all aspects of their disputes for both parties.

Conclusion

The tenant's application is withdrawn. The landlord's 2 Month Notice is cancelled. The landlord's 10 Day Notice is cancelled.

The monetary order is to be used if the tenant does not pay \$500.00 to the landlord 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 pay the outstanding rent as set out in their agreement. Should the tenant(s) fail to comply with these orders, these orders may be filed in the Small Claims Division of the Provincial Court and enforced as orders of that Court.

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: December 07, 2015

Residential Tenancy Branch

