



DECISION

Dispute Codes CNL DRI OLC RP FF
 CNL ERP OLC FF

Introduction

This hearing was convened to hear matters pertaining to an Application for Dispute Resolution filed by the Tenant on October 16, 2015. The Tenants filed seeking an order to cancel a 2 Month Notice to end tenancy for landlord's use; to dispute an additional rent increase; Order the Landlord to comply with the Act, regulation or tenancy agreement; Order the Landlord to make repairs to the unit site or property; and to recover the cost of his filing fee from the Landlord.

The hearing was conducted via teleconference and was attended by the Landlord's Counsel, Co-Counsel, and the Tenant C.C. The Tenant gave affirmed testimony that he would be representing the co-Tenant, D.C. Therefore, for the remainder of this decision, terms or references to the Tenants importing the singular shall include the plural and vice versa, except where the context indicates otherwise

On October 29, 2015 the Tenants submitted 31 pages of evidence to the Residential Tenancy Branch (RTB). Counsel acknowledged receipt of these documents and no issues were raised with service or receipt. As such, I accepted the Tenants' documents as evidence for these proceedings.

Counsel submitted that the Landlord's evidence was faxed to the RTB on December 15, 2015, the day before this hearing. The Tenant acknowledged receipt of that evidence in the following two formats: by email on December 14, 2015 and by courier on December 15, 2015. The Tenant noted that the evidence was late.

The hearing package contains instructions on evidence and the deadlines to submit evidence, as does the Notice of Hearing provided to the Tenants which states:

- 1. Evidence to support your position is important and must be given to the other party and to the Residential Tenancy Branch before the hearing. Instructions for evidence processing are included in this package. Deadlines are critical.*

Rule of Procedure 3.15 provides that to ensure fairness and to the extent possible, the respondent's evidence must be organized, clear and legible. The respondent must ensure documents and digital evidence that are intended to be relied on at the hearing, are served on the applicant and submitted to the Residential Tenancy Branch as soon as possible. ***In all events***, the respondent's evidence must be received by the applicant and the Residential Tenancy Branch **not less than 7 days before the hearing** [my emphasis added by underlining and bold text].

Therefore, as the Landlord's evidence was not served upon the Tenants in accordance with Rule of Procedure 3.15, I declined to consider that documentary evidence. I did however consider oral submissions related to that evidence.

Both parties were provided with the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions.

Issue(s) to be Decided

1. Have the parties agreed to settle the matters relating to the Tenants' October 16, 2015 application for Dispute Resolution?
2. Have the parties agreed to settle the matters relating to the Tenants' November 12, 2015 application for Dispute Resolution?

Background and Evidence

The Tenants submitted undisputed evidence that they have occupied the rental unit since December 1, 2012 based on a written fixed term tenancy agreement. The Tenants have continuously occupied the rental property and the most recent written agreement they entered into listed a start date of December 1, 2014 for a fixed period of time ending November 30, 2015, at which time the tenancy would continue on a month-to-month basis or based on another fixed length of time. The parties have not entered into another subsequent written tenancy agreement and the Tenants continue to occupy the rental unit and property.

The current monthly rent is \$2,600.00 payable on the first of each month. On November 5, 2012 the Tenants paid \$1,300.00 as the security deposit.

During the course of this proceeding the parties agreed to settle the matters relating to this matter, the Tenants' application for Dispute Resolution which was filed on October 16, 2015 and the matter relating to the Tenants' application for Dispute Resolution which was filed on November 12, 2015. The second application is currently scheduled to be heard on January 12, 2016 at 11:00 a.m. The file numbers for each application are listed on the front page of this Decision.

Analysis

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.

During the hearing, the parties discussed the issues between them and achieved a resolution of their dispute on the following terms:

- 1) The Tenant agreed to withdraw both of their applications for Dispute Resolution which were filed on October 16, 2015 and November 12, 2015 (file numbers are listed on the front page of this Decision);
- 2) The Landlord has withdrawn both 2 Month Notices to end tenancy issued September 28, 2015 and October 24, 2015;
- 3) The Landlord has sent the Tenants two cheques in the amount of \$50.00 each as reimbursement for each RTB filing fee;
- 4) The parties agreed that the Tenants will arrange and pay for a licensed electrician to repair the electrical system in order to restore lights to the end of the rental property;
- 5) The parties agreed that the Tenants will submit a copy of the electrician's invoice to Counsel's office;
- 6) The Tenants will deduct the amount paid for the aforementioned electrical work/invoice from their future rent payments ;
- 7) Each party acknowledged that this tenancy continues to be in full force and effect until such time as it is ended in accordance with the *Act*; and
- 8) Each party agreed that the terms of this settlement agreement were reached by their own free will and without undue pressure or intimidation.

Conclusion

The parties agreed to settle the matters relating to both of the Tenant's applications for Dispute Resolution, pursuant to section 63 of the Act.

The RTB has been advised of the above settlement and the hearing scheduled for January 12, 2016 at 11:00 a.m. will be cancelled.

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: December 16, 2015

Residential Tenancy Branch

