



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

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Introduction

This hearing was convened to hear matters pertaining to cross Applications for Dispute Resolution filed by both the Landlords and the Tenant.

The Landlords filed on December 4, 2015 seeking an Order of Possession for landlord's use of the property.

The Tenant filed on January 4, 2016 seeking to cancel a 2 Month Notice to end tenancy for landlord's use and for other reasons.

The hearing was conducted via teleconference and was attended by: both Landlords, the Tenant, and the Tenant's Advocate. Each person gave affirmed testimony. I explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however, each declined and acknowledged that they understood how the conference would proceed.

The Tenant requested that his surname be corrected to display the correct spelling. Neither party submitted any issues or concerns about the Tenant's request. Accordingly, the style of cause was amended to reflect the correct spelling of the Tenant's last name, pursuant to section 64(3)(c) of the Act.

On December 4, 2015 the Landlords submitted 2 pages of evidence to the Residential Tenancy Branch (RTB) consisting of a copy of the 2 Month Notice to end tenancy issued September 6, 2015. On January 7, 2016 the Landlords submitted 2 additional pages of evidence consisting of a copy of a marriage certificate and a doctor's note. The Landlords affirmed that they served the Tenant with copies of the marriage certificate and the doctor's note as evidence. The Landlords testified that they did not serve the Tenant with a copy of the 2 Month Notice with their evidence. The Tenant acknowledged receipt of the marriage certificate and the doctor's note; however, he has never received a copy of a 2 Month Notice.

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.*

To consider documentary evidence that was not served upon the other party would be a breach of the principles of natural justice. Therefore, as the 2 Month Notice was not served upon the Tenant as part of the Landlords' evidence, I declined to consider the 2 Month Notice as evidence. I did however consider the Landlords' oral testimony regarding the 2 Month Notice.

On January 14, 2016 the Tenant submitted 1 page of evidence to the RTB consisting of a letter issued by the Tenant's Advocate. The Tenant affirmed that he served the Landlord with copies of the same documents that he had served the RTB. The Landlord acknowledged receipt of these documents and no issues regarding service or receipt were raised. As such, I accepted the Tenant's submission as evidence for these proceedings.

Both parties were provided with the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. Following is a summary of those submissions and includes only that which is relevant to the matters before me.

Issue(s) to be Decided

Have the parties agreed to settle these matters?

Background and Evidence

The parties entered into a verbal month to month tenancy agreement that began on October 14, 2014. Rent of \$500.00 was payable on the first of each month and on October 15, 2014 the Tenant paid the Landlords \$250.00 as the security deposit.

During the course of this proceeding the parties agreed to settle these matters.

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, engaged in a conversation, and achieved a resolution of their dispute on the following terms:

- 1) The Landlords agreed to withdraw their application for Dispute Resolution;
- 2) The Tenant agreed to withdraw their application for Dispute Resolution;
- 3) The Tenant agreed to vacate the rental unit and end the tenancy no later than **March 31, 2016 at 1:00 p.m.**;
- 4) The Tenant agreed to pay his February and March 2016 rent in full and on time;
- 5) The parties mutually agreed that the Tenant is entitled to compensation equal to one month's rent of \$500.00 pursuant to section 51 of the *Act* [regarding to the 2 Month Notice to end tenancy];
- 6) The Tenant may choose to either withhold payment for his March 2016 rent as compensation entitled under section 51 of the *Act* or: have the Landlords pay him the \$500.00 compensation on March 31, 2016 at 1:00 p.m.;
- 7) Each person agreed that the terms of this settlement agreement were reached by their own free will and without undue pressure or intimidation.

The parties agreed to settle these matters; therefore, I declined to award recovery of the filing fee.

In support of the settlement agreement, The Landlord has been issued an Order of Possession effective **March 31, 2016**. The Tenant has been issued a Monetary Order for **\$500.00**.

Section 38(1) of the *Act* stipulates that if within 15 days after the later of: 1) the date the tenancy ends, and 2) the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit, to the tenant with interest or make application for dispute resolution claiming against the security deposit.

The Landlord is ordered to disburse the Tenant's \$250.00 security deposit at the end of this tenancy, in accordance with section 38 of the *Act*.

Conclusion

The parties agreed to settle these matters on the above listed grounds, pursuant to section 63 of the *Act*.

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: January 29, 2016

Residential Tenancy Branch

