Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BANYON HOLDINGS CORPORATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, FF

Introduction

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

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47; and
- authorization to recover their filing fee for this application from the landlord pursuant to section 72.

Both tenants appeared. The landlord was represented by its two agents. No issues regarding service of relevant documents were raised by either party.

In the course of the hearing the parties were able to agree to a mutual end to the tenancy.

Preliminary Issue – Tenants' Application to Adjourn

At the hearing, and after a settlement in principle had been agreed to, the tenant BG asked for an adjournment. I asked the tenant BG on what basis he wished an adjournment. The tenant BG stated that he wanted an adjournment as the landlord had raised "new" evidence regarding an event that is alleged to have occurred on 29 March 2016 and expenses that resulted from that event.

The "new" evidence is not relevant for the purposes of proceeding by way of adjudication as the only issues before me for the purpose of adjudication are those raised by the tenants' application. The "new" evidence is not relevant for the purpose of settlement as the issues being settled are only that of end to tenancy, possession of the rental unit, the tenant BG's conduct until the end of tenancy, and the application of the liquidated damages clause.

I refused the tenants' request for an adjournment as it is not necessary as the evidence is only necessary for the purpose of adjudication and is only relevant in an application by the landlord. I informed the parties of this decision at the hearing.

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 landlord agreed to withdraw the 1 Month Notice.
2. The tenants agreed to vacate the rental unit on or before one o'clock in the afternoon on 30 April 2016.
3. The tenant BG agreed to a good conduct requirement for the remainder of the tenancy, which includes:
    a. not creating disturbances that interfere with other occupants quiet enjoyment;
    b. having limited interactions (e.g. greetings only) with other occupants of the residential property; and
    c. having only those interactions that are necessary with the landlord's staff.
4. The landlord agreed that if the tenant BG satisfies the good conduct requirement in clause 3 of this agreement, the landlord will waive its right to pursue liquidated damages under the tenancy agreement.
5. The tenant's advocate will report to the landlord's agent every Friday to apprise her as to the progress made procuring the tenant CD's hearing aids.

The parties stated they understood the terms of the tenancy agreement. The parties agreed that these particulars comprise the full and final settlement of all aspects of their disputes for both parties.

After the settlement had been recorded, the tenant SG confirmed that the rental unit address could be used for service of the order of possession and that she would make all necessary arrangements regarding the end of tenancy.

Conclusion

The landlord's 1 Month Notice is withdrawn.

The attached order of possession is to be used by the landlord if the tenant(s) do(es) 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 tenants with this order so that it may enforce it in the event that the tenant(s) do(es) not vacate the premises by the time and date set out in their agreement. Should the tenant(s) 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: April 08, 2016

Residential Tenancy Branch