



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, MNR, FF; CNC

### Introduction

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* ("Act") for:

- an order of possession for cause, pursuant to section 55;
- a monetary order for unpaid rent, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

This hearing also dealt with the tenant's cross-application pursuant to the *Act* for:

- cancellation of the landlords' 1 Month Notice to End Tenancy for Cause, dated February 1, 2016 ("1 Month Notice"), pursuant to section 47.

The landlord's agent, AK ("landlord") and the tenant attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. The landlord confirmed that she had authority to represent the two landlords named in the landlords' application as an agent at this hearing. This hearing lasted approximately 35 minutes in order to allow both parties to fully negotiate a settlement of this claim.

Both parties confirmed receipt of the other party's application for dispute resolution hearing package. In accordance with sections 89 and 90 of the *Act*, I find that both parties were duly served with the other party's application.

The tenant confirmed personal receipt of the landlords' 1 Month Notice on February 1, 2016. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was duly served with the landlords' 1 Month Notice.

### Background and Evidence

Both parties agreed that this tenancy began on June 19, 2015. Both parties agreed that monthly rent in the amount of \$2,400.00 is payable on the first day of each month and that the tenant paid a security deposit of \$2,400.00 and the landlords continue to retain this deposit. I advised the landlord during the hearing that this security deposit amount was in excess of half a month's rent, which is the maximum allowable amount under section 19 of the *Act*. The landlord confirmed that the tenant did not pay a pet damage deposit for this tenancy. The tenant confirmed that she continues to reside in the rental unit. A copy of the written tenancy agreement was provided for this hearing.

The tenant seeks to cancel the landlords' 1 Month Notice, which has an effective move-out date of March 1, 2016, which both parties agreed should be corrected to March 31, 2016. Neither party provided a copy of the notice, but both parties confirmed the details of the notice during the hearing. The notice indicates the following reasons for ending the tenancy:

- *Tenant is repeatedly late paying rent.*
- *Tenant has allowed an unreasonable number of occupants ["pet" was added by the landlord] in the unit/site*

Both parties agreed that the tenant owes \$4,800.00 total for rent from March to April 2016. The landlords seek the above amount from the tenant for unpaid rent. The landlords also seek to recover the \$100.00 filing fee paid for their application.

### 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, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding settlement of all issues currently under dispute at this time:

1. Both parties agreed that this tenancy will end by 1:00 p.m. on April 30, 2016, by which time the tenant and any other occupants will have vacated the rental unit;
2. Both parties agreed that the tenant will pay the landlords a total of \$4,900.00, for unpaid rent of \$4,800.00 from March to April 2016 as well as for the landlords' \$100.00 application filing fee, according to the following schedule:
  - a. \$1,200.00 will be deducted from the overpayment of the security deposit made by the tenant to the landlords;
  - b. \$600.00 will be paid by the tenant to the landlords by April 15, 2016;

- c. \$3,100.00 will be paid by the tenant to the landlords by April 20, 2016;
- 3. The landlord agreed that the landlords' 1 Month Notice, dated February 1, 2016, is cancelled and of no force or effect; and
- 4. Both parties agreed that this settlement agreement constitutes a final and binding resolution of both parties' applications at this hearing.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties. Both parties testified at the hearing that they understood and agreed to the above terms, free of any duress or coercion. Both parties testified that they understood and agreed that the above terms are legal, final and binding and enforceable, which settle all aspects of this dispute.

I advised both parties that the remainder of the tenant's security deposit of \$1,200.00 will be dealt with at the end of this tenancy in accordance with section 38 of the *Act*.

### Conclusion

To give effect to the settlement reached between the parties and as advised to both parties during the hearing, I issue the attached Order of Possession to be used by the landlords **only** if the tenant and any other occupants fail to vacate the rental premises by 1:00 p.m. on April 30, 2016. The landlords are provided with this Order in the above terms and the tenant must be served with this Order in the event that the tenant and any other occupants fail to vacate the rental premises by 1:00 p.m. on April 30, 2016. 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.

In order to implement the above settlement reached between the parties, and as advised to both parties during the hearing, I issue a monetary Order in the landlords' favour in the amount of \$3,700.00. I deliver this Order to the landlords in support of the above agreement for use **only** in the event that the tenant does not abide by condition #2 of the above agreement. The landlords are provided with this Order in the above terms and the tenant must be served with a copy of this Order as soon as possible after the tenant does not abide by condition #2 of the above agreement. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

The landlords' 1 Month Notice, dated February 1, 2016 is cancelled and of no force or effect.

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: April 04, 2016

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Residential Tenancy Branch