



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

This hearing was convened in relation to the tenant's application for cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46 of the *Residential Tenancy Act* (the Act).

The tenant and landlord both appeared. The co-landlord also attended.

Neither party raised any issue with service.

Background to Settlement

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.

At the commencement of the hearing I informed the parties that applications before the Residential Tenancy Branch may be resolved in one of two ways: mediation or adjudication.

In applications such as these, if in the course of mediation parties are able to reach an agreement as to terms under which the tenancy would continue or terms under which the tenancy would end, that settlement is recorded as a decision of the Residential Tenancy Branch and any order necessary to implement the settlement is issued by the Branch and has the same force and effect as if it were issued as a result of adjudication.

I informed the parties that settlement discussions occur on a "without prejudice basis", which means that I understand that parties may make concessions that do not have to do with admission of any liability or waiver of any right, but have to do with personal,

business, or other pragmatic reasons and a desire to reach a mutually agreed to solution to the problems in the tenancy. I informed the parties that in the course of a mediated outcome, I would not hear evidence, but that if the mediation was unsuccessful, the hearing would convert to the adjudicative model and I would hear evidence at that time.

I informed the parties that the alternate mode of dispute resolution available to them was adjudication. In the course of adjudication I am provided testimony and documentary evidence from which I make findings of fact. Those facts are applied to the law in order to reach a determination on the entitlement between the parties.

I informed the parties that the advantage to mediation was that the parties were able to tailor a specific remedy to the particulars of their circumstances. I informed the parties that the disadvantage to mediation was that it required the parties to reach a mutual agreement and that if the parties were too far apart that this might not be possible.

The parties were given an opportunity to ask any questions of me regarding the two models of dispute resolution. I answered all questions asked of me.

The parties elected to participate in mediation. Through mediation were able to reach an agreement as to terms under which the tenancy would continue on a conditional basis.

Throughout the course of those discussions the parties showed great respect to this process and, more importantly, each other. Through those discussions the parties were able to reach a settlement in respect of all outstanding issues in relation to this tenancy. I thank the parties for their respectful conduct and assistance in reaching a resolution to these disputes.

Recorded Settlement

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 pay to the landlord \$3,060.00 on or before 7 July 2016.
2. The tenant agreed that rent would be paid on or before the first of each month beginning 1 August 2016.

3. The tenant agreed that for the months July to December 2016 if she failed to pay rent when due that she would agree to vacate the rental unit on or before the seventh day from the date of service of the order of possession.
4. The landlord agreed that he would only use the order of possession in accordance with the terms of this agreement. For clarity, the order of possession may be used as follows:
 - a. If the tenant fails to pay rent due 7 July 2016, the landlord may serve the order of possession to the tenant no earlier than 8 July 2016. If the tenant receives the order of possession on 8 July 2016, the tenant must vacate the rental unit no later than 15 July 2016.
 - b. If the tenant fails to pay rent due 1 August 2016, the landlord may serve the order of possession to the tenant no earlier than 2 August 2016. If the tenant receives the order of possession on 2 August 2016, the tenant must vacate the rental unit no later than 9 August 2016.
 - c. If the tenant fails to pay rent due 1 September 2016, the landlord may serve the order of possession to the tenant no earlier than 2 September 2016. If the tenant receives the order of possession on 2 September 2016, the tenant must vacate the rental unit no later than 9 September 2016.
 - d. If the tenant fails to pay rent due 1 October 2016, the landlord may serve the order of possession to the tenant no earlier than 2 October 2016. If the tenant receives the order of possession on 2 October 2016, the tenant must vacate the rental unit no later than 9 October 2016.
 - e. If the tenant fails to pay rent due 1 November 2016, the landlord may serve the order of possession to the tenant no earlier than 2 November 2016. If the tenant receives the order of possession on 2 November 2016, the tenant must vacate the rental unit no later than 9 November 2016.
 - f. If the tenant fails to pay rent due 1 December 2016, the landlord may serve the order of possession to the tenant no earlier than 2 December 2016. If the tenant receives the order of possession on 2 December 2016, the tenant must vacate the rental unit no later than 9 December 2016.
 - g. If the tenant fails to pay rent due 1 January 2017 or later, the landlord may issue a subsequent 10 Day Notice and seek enforcement of that notice. The landlord may not use the attached order of possession for rent arrears after 1 January 2017.

Each party stated that he or she understood the terms of this agreement. The parties agreed that these particulars comprise the full and final settlement of all aspects of their disputes for both parties.

I caution the landlord that he must use the attached order of possession only in accordance with the terms of this agreement and that failure to do so may result in liability for that improper use.

Conclusion

The landlord's 10 Day Notice is of no force and effect.

The monetary order is to be used if the tenant does not pay \$3,060.00 to the landlord in accordance with their agreement. Should the tenant(s) fail to comply with this order, this order 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 in accordance with the terms of this 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: June 23, 2016

Residential Tenancy Branch