



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding DANA DEVELOPMENT INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNL, MNDC, MNSD, OLC, O, FF

Introduction

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

- cancellation of the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property, dated November 29, 2016 ("2 Month Notice"), pursuant to section 49;
- a monetary order for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement, pursuant to section 67;
- authorization to obtain a return of the tenants' security and pet damage deposits, pursuant to section 38;
- an order requiring the landlord to comply with the *Act*, *Regulation* or tenancy agreement, pursuant to section 62;
- other unspecified remedies; and
- authorization to recover the filing fee for this application, pursuant to section 72.

Two of the three tenants, "tenant BM" and "tenant ER" (collectively "two tenants"), the landlord's agent, NR ("landlord") and the landlord's lawyer, DL, 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 he was a shareholder of the landlord company named in this application and that he had authority to speak on its behalf as an agent at this hearing. The landlord confirmed that his lawyer had permission to speak on his behalf at this hearing. "Witness MP" testified at this hearing on behalf of the landlord, regarding service of the 2 Month Notice only.

Both tenants confirmed that they had authority to speak on behalf of "tenant EP," the tenant who did not appear at this hearing, as agents (collectively "tenants").

This hearing lasted approximately 91 minutes in order to allow both parties to fully negotiate a settlement of this claim and due to repeated questions from the two tenants regarding the hearing process and settlement.

The landlord's lawyer confirmed receipt of the tenants' application for dispute resolution hearing package and the two tenants confirmed receipt of the landlord's written evidence package. In accordance with sections 89 and 90 of the *Act*, I find that the landlord was duly served with the tenants' application and the tenants were duly served with the landlord's written evidence package.

The two tenants confirmed receipt of the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property, dated November 29, 2016 ("2 Month Notice"). The notice states an effective move-out date of February 1, 2017. In accordance with sections 88 and 90 of the *Act*, I find that the tenants were duly served with the landlord's 2 Month Notice.

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, 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 March 1, 2017, by which time the tenants and any other occupants will have vacated the rental unit;
2. Both parties agreed that the tenants are entitled to one month's free rent compensation of \$1,895.00, pursuant to section 51 of the *Act* and the landlord's 2 Month Notice, on the following term:
 - a. The tenants will not be required to pay any rent of \$1,895.00 to the landlord for the period from February 1 to 28, 2017;
3. The landlord agreed to return the tenants' security and pet damage deposits totaling \$1,895.00, as well as pay an additional \$1,197.50 in compensation, to the tenants, according to the following terms:
 - a. \$1,546.25 will be paid by January 23, 2017;
 - b. \$1,546.25 will be paid by March 1, 2017;

- c. both parties agreed that the landlord will issue two cheques in the name of tenant ER only, for the above payments;
4. The tenants agreed that this settlement agreement constitutes a final and binding resolution of their application, including the \$100.00 filing fee, at this hearing.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties. Both parties affirmed at the hearing that they understood and agreed to the above terms, free of any duress or coercion. Both parties affirmed that they understood and agreed that the above terms are legal, final, binding and enforceable, which settle all aspects of this dispute. The two tenants affirmed that they agreed and understood that they were making this settlement agreement on behalf of tenant EP and that she was also bound by the settlement terms.

Both parties were provided additional time during the hearing in order to discuss settlement with each other, before agreeing to the above settlement. Both parties, particularly the two tenants who repeatedly asked the same questions regarding settlement, enforceability and the hearing process, were provided with ample information from me, before they agreed to settle.

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 landlord **only** if the tenant(s) and any other occupants fail to vacate the rental premises by 1:00 p.m. on March 1, 2017. The tenant(s) must be served with this Order in the event that the tenant(s) and any other occupants fail to vacate the rental premises by 1:00 p.m. on March 1, 2017. 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.

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 tenants' favour in the amount of \$3,092.50. I deliver this Order to the tenants in support of the above agreement for use **only** in the event that the landlord does not abide by condition #3 of the above agreement. The landlord must be served with a copy of this Order as soon as possible after the landlord does not abide by condition #3 of the above agreement. Should the landlord 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.

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 18, 2017

Residential Tenancy Branch