



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, OPM, O, FF; MT, CNL, OLC, FF

Introduction

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

- an order of possession for landlord's use of property, pursuant to section 55;
- other remedies, identified as an order of possession based on a mutual agreement to end tenancy, pursuant to section 55; and
- authorization to recover the filing fee for his application, pursuant to section 72.

This hearing also dealt with the tenants' application pursuant to the *Act* for:

- more time to make an application to cancel the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property, dated January 31, 2017 ("2 Month Notice"), pursuant to section 66;
- cancellation of the landlord's 2 Month Notice, pursuant to section 49;
- an order requiring the landlord to comply with the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 62; and
- authorization to recover the filing fee for their application, pursuant to section 72.

The two tenants, male and female, and the landlord attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. This hearing lasted approximately 57 minutes in order to allow both parties to fully negotiate a settlement of their claims.

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 tenants confirmed receipt of the landlord's 2 Month Notice on February 2, 2017, which the landlord said was served on January 31, 2017, by way of registered mail. The notice indicates an effective move-out date of March 31, 2017. In accordance with sections 88 and 90 of the *Act*, I find that both tenants were duly served with the landlord's 2 Month Notice.

During the hearing, both parties confirmed that there is a "future hearing" scheduled for the landlord's application on February 22, 2017 at 9:30 a.m. The tenants confirmed that they had received the landlord's application for that matter. Both parties agreed to settle the landlord's application at this hearing and confirmed that they would not attend the future hearing because it is cancelled by way of this agreement.

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 June 30, 2017, by which time the tenants and any other occupants will have vacated the rental unit;
 - a. Both parties agreed that the tenants are permitted to vacate the rental unit earlier than the above date, without penalty from the landlord, provided that they first notify the landlord in writing;
2. The landlord agreed, at his own cost, to remove the basement carpet in the storage area as well as the tree branches debris at the exterior of the rental property, by March 6, 2017;
3. The landlord agreed, at his own cost, to fix the fence at the rental property by March 6, 2017;
4. Both parties agreed to abide by section 28 of the *Act* which protects the tenants' right to quiet enjoyment;
5. Both parties agreed that their mutual agreement to end tenancy, dated June 27, 2016 with an effective move-out date of March 31, 2017, is cancelled and of no force or effect;
6. Both parties agreed that the tenants are not required to pay rent to the landlord for the last month of their tenancy, as per the landlord's 2 Month Notice, dated January 31, 2017;

7. Both parties agreed that the tenants are entitled to deduct \$100.00 from their rent in March 2017, in full satisfaction of the monetary order issued at a “previous hearing” on June 20, 2016, the file number of which appears on the front page of this decision;
8. Both parties agreed that this settlement agreement constitutes a final and binding resolution of the landlord's application, filed on January 26, 2017, and scheduled for a future hearing at 9:30 a.m. on February 22, 2017, arising out of this tenancy, the file number of which appears on the front page of this decision;
 - a. Both parties confirmed that they would not be attending the future hearing which is hereby cancelled by way of this settlement;
9. Both parties agreed to bear the cost of the \$100.00 filing fees paid for their applications;
10. 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 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 and binding and enforceable, which settle all aspects of this dispute.

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 June 30, 2017. The landlord is provided with this Order in the above terms and 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 June 30, 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.

The parties' mutual agreement to end tenancy, dated June 27, 2016, is cancelled and of no force or effect.

The landlord's application, scheduled for a future hearing on February 22, 2017 at 9:30 a.m., is settled by way of this agreement and neither party is required to attend the future hearing. The landlord must bear the cost of the filing fee for that application.

The tenants must bear the cost of their filing fee for their application at this hearing.

If the parties disagree as to whether the above conditions #2 and #3 have been met, both parties have leave to reapply at the Residential Tenancy Branch for dispute resolution.

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: February 07, 2017

Residential Tenancy Branch