



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WILLIAM NEMETZ INVESTMENTS LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

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

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause, dated January 24, 2017 ("1 Month Notice"), pursuant to section 47.

The "first hearing" on March 7, 2017 lasted approximately 76 minutes and the "second hearing" on March 14, 2017 lasted approximately 18 minutes.

The landlord's two agents, "landlord LN" and "landlord FS" (collectively "landlord") and the tenant and his two advocates, "advocate CJ" and "advocate SP" attended both hearings and all were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

At the first hearing, Landlord LN confirmed that she was the building manager for the rental property and landlord FS confirmed that she was the co-owner of the "landlord company" named in this application. Landlord FS confirmed that she and the landlord both had authority to speak on behalf of the landlord company at both hearings. The tenant confirmed that his two advocates had authority to speak on his behalf at both hearings.

At the first hearing, Landlord LN confirmed receipt of the tenant's application for dispute resolution hearing package. In accordance with sections 89 and 90 of the *Act*, I find that the landlord was duly served with the tenant's application.

Preliminary Issue - Adjournment of First Hearing and Service of Documents

The first hearing on March 7, 2017 was adjourned because the tenant received the landlord's written evidence but it was late, so he did not have a chance to review it with his two advocates. After the first hearing, I issued an interim decision, dated March 9, 2017, adjourning the first hearing to the second hearing date on March 14, 2017.

At the second hearing, the tenant confirmed that he had a chance to review the landlord's written evidence with his two advocates and he was ready to proceed with the second hearing. Landlord LN, landlord FS, and the tenant's two advocates all confirmed that they were also ready to proceed with the second hearing.

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 July 31, 2017, by which time the tenant and any other occupants will have vacated the rental unit;
2. Both parties agreed that the tenant is permitted to vacate the rental unit earlier than July 31, 2017 provided that he gives written notice to the landlord first;
3. Both parties agreed that the landlord's 1 Month Notice, dated January 24, 2017, is cancelled and of no force or effect;
4. The tenant agreed that this settlement agreement constitutes a final and binding resolution of his application.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties. Both parties affirmed at the second 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.

Conclusion

To give effect to the settlement reached between the parties and as advised to both parties during the second hearing, I issue the attached Order of Possession to be used by the landlord **only** if the tenant and any other occupants fail to vacate the rental premises by 1:00 p.m. on July 31, 2017. The landlord is 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 July 31, 2017. 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.

The landlord's 1 Month Notice, dated January 24, 2017, 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: March 15, 2017

Residential Tenancy Branch