



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC OLC FF

Introduction

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

- cancellation of the landlord's 2 Month Notice to End Tenancy for landlord's own use (the 2 Month Notice) pursuant to section 46;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72 of the Act.

Both parties attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

As both parties were in attendance I confirmed that there were no issues with service of the tenant's application for dispute resolution and evidentiary materials. The landlord confirmed receipt of the tenant's materials. In accordance with sections 88 and 89 of the Act, I find that the landlord was duly served with copies of the tenant's application and evidence. The tenant confirmed receipt of the landlord's evidence. In accordance with section 88 of the Act, I find the tenant duly served with copies of the landlord's evidence.

The landlord gave undisputed, sworn testimony that the 2 Month Notice, with an effective date of March 31, 2017, was personally served to the tenant on January 30, 2017. Accordingly, I find that the 2 Month Notice was served to the tenant in accordance with section 88 of the Act.

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 entered into a mutual agreement that this tenancy will end on April 30, 2017 at 1 p.m., by which date the tenant and any other occupants will have vacated the rental unit.
2. The landlord agreed to return the tenant's post-dated rent cheques for March 2017 through to July 2017, by 6pm on March 7, 2017. These cheques are to be left in the mailbox at the rental suite for the tenant to pick up.
3. The tenant agreed that the landlord may cash the February 2017 rent cheque, and this satisfies all outstanding rent for this tenancy until April 30, 2017.
4. The landlord still holds the tenant's security deposit in the amount \$575.00. The security deposit will be dealt with according to the *Act* at the end of the tenancy.
5. The landlord withdrew the 2 Month Notice dated January 30, 2017.
6. The parties agreed that this tenancy ends by way of their mutual agreement to end this tenancy and not on the basis of the landlord's 2 Month Notice, dated January 30, 2017
7. Both parties agreed that this settlement agreement constituted a final and binding resolution of the tenant's application.

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, binding and enforceable, which settle all aspects of this dispute.

Conclusion

To give effect to the settlement reached between the parties and as discussed with them during the hearing, I issue an Order of Possession to the landlord, which is to take effect by 1:00 p.m. on April 30, 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 does not abide by condition #1 of the above settlement. 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 2 Month Notice, dated January 30 2017, is cancelled and is 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 8, 2017

Residential Tenancy Branch

