



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF; CNR, RR

Introduction

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

- an order of possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent, pursuant to section 67; and
- authorization to recover the filing fee for his application, pursuant to section 72.

This hearing also dealt with the tenant's cross-application pursuant to the *Act* for:

- cancellation of the landlords' 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated February 16, 2017 ("10 Day Notice"), pursuant to section 46; and
- an order to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65.

One of two landlords named in this application, landlord GT ("landlord"), the landlords' agent PT, and the tenant 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 had authority to speak on behalf of "landlord KS," the other landlord named in this application. The landlords' agent confirmed that she had permission to speak on behalf of both landlords named in this application at this hearing (collectively "landlords"). This hearing lasted approximately 78 minutes in order to allow both parties to negotiate a full settlement of both applications.

The landlord 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 both landlords were duly served with the tenant's application.

The landlord testified that the landlords' application for dispute resolution hearing package was sent to the tenant by way of registered mail on March 6, 2017. The landlords provided a Canada Post receipt and tracking number with their application. The tenant stated that he did not receive a copy of the landlords' application because he

did not have access to the mailbox at the rental unit and Canada Post did not provide him with access when he asked them on three previous occasions. The landlord said that he was not aware of this, although the tenant stated that he informed landlord KS verbally near the beginning of the tenancy. As per sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlords' application on March 11, 2017, five days after its registered mailing. I find that the tenant was unable to show through written documentation that he was unable to access his mailbox after inquiring through Canada Post or that he informed the landlords about this issue. In any event, the tenant consented to settling the landlords' application at this hearing.

Pursuant to section 64(3)(c) of the *Act*, I amend the tenant's application to correct the first name of the landlord. The tenant included the landlord's nickname rather than his first legal name. The landlord consented to this amendment during the 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 and orders. 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. The tenant agreed to pay the landlords \$2,000.00 according to the following terms and the landlord agreed that this amount satisfies all outstanding rent owed by the tenant for this tenancy for the period from February 16, 2017 until April 30, 2017:
 - a. Both parties agreed that the landlords will retain \$500.00 from the tenant's security deposit of \$800.00;
 - b. The tenant will pay the landlords \$600.00 by April 1, 2017 by way of certified cheque or money order;
 - c. The tenant will pay the landlords \$350.00 by April 8, 2017 by way of certified cheque or money order;
 - d. The tenant will pay the landlords \$350.00 by April 15, 2017 by way of certified cheque or money order;
 - e. The tenant will pay the landlords \$200.00 by April 22, 2017 by way of certified cheque or money order;

2. Both parties agreed that this tenancy will end by 1:00 p.m. on April 30, 2017, by which time the tenant and any other occupants will have vacated the rental unit, in the event that the tenant abides by conditions #1(b) and #1(c) and #1(d) and #1(e) of the above settlement. In that event, the landlords' 10 Day Notice, dated February 16, 2017, is cancelled and of no force or effect;
3. Both parties agreed that this tenancy will end pursuant to a two (2) day Order of Possession, if the tenant does not abide by conditions #1(b) or #1(c) or #1(d) or #1(e) of the above settlement;
4. The landlords agreed, at their own cost, to have a certified, licensed pest control representative inspect and complete any recommended treatment following inspection of the rats at the rental unit, by March 28, 2017;
5. Both parties agreed that the remainder of the tenant's security deposit in the amount of \$300.00 will be dealt with at the end of this tenancy in accordance with section 38 of the *Act*;
6. The landlords agreed to bear the cost of the \$100.00 filing fee paid for their application;
7. 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, binding and enforceable, which settle all aspects of this dispute.

The landlord and the landlords' agent both confirmed that they agreed and understood that this settlement was also binding upon landlord KS. The tenant confirmed that he understood the serious consequences of violating the terms of this settlement.

Conclusion

To give effect to the settlement reached between the parties and as discussed with them during the hearing, I issue the attached two (2) day Order of Possession to be used by the landlords **only** if the tenant does not abide by conditions #1(b) or #1(c) or #1(d) or #1(e) of the above settlement. The landlords are provided with this Order in the above terms and the tenant must be served with this Order as soon as possible after he does not comply with the above 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.

In the event that the tenant abides by conditions #1(b) and #1(c) and #1(d) and #1(e) of the above settlement, I find that the landlords' 10 Day Notice, dated February 16, 2017, is cancelled and of no force or effect. In that event, this tenancy continues only until 1:00 p.m. on April 30, 2017.

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 landlords' favour in the amount of \$1,500.00. I deliver this Order to the landlords in support of the above agreement for use **only** in the event that the tenant does not pay the landlords \$1,500.00 as per the above agreement. The landlords are provided with this Order in the above terms and the tenant must be served with a copy of this Order as soon as possible after he does not comply with the above agreement. Should the tenant 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.

The landlords must bear the cost of the \$100.00 filing fee paid for their application.

I order the landlords to retain \$500.00 from the tenant's security deposit. The remainder of the tenant's security deposit in the amount of \$300.00 is to be dealt with at the end of this tenancy in accordance with section 38 of the *Act*.

I order the landlords, at their own cost, to have a certified, licensed pest control representative inspect and complete any recommended treatment following inspection of the rats at the rental unit, by March 28, 2017.

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 21, 2017

Residential Tenancy Branch