



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding AHLUWALIA (AWALIA ENT. INC.)
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNR OPR FF

Introduction:

Both parties attended the hearing and gave sworn testimony. The landlord said they served the tenant with a 10 Day Notice to End the Tenancy for non-payment of utilities dated April 2, 2017 to be effective April 12, 2017 by posting on the door. The tenant said they served the landlord with their Application for Dispute dated April 3, 2017 by registered mail. The parties confirmed the documents were served as described. The tenant applies pursuant to section 46 of *The Residential Tenancy Act* (the Act) to cancel the Notice to End Tenancy.

Issues: Is the tenant entitled to any relief?

Background and Evidence:

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The original tenancy began on November 1, 2015 with a new lease executed January 1, 2017. The current rent is \$2100 plus \$81.83 monthly for utilities of water, sewer and garbage removal which are based on the utility bill issued by the municipality. The tenant paid a security deposit of \$500. The landlord issued the 10 Day Notice to End Tenancy as he claimed the tenant had not paid the municipal utility bill for 2016 and only made two payments in 2017. There was some discussion as to how much was actually owed for utilities. The 2015 lease had stated 'water & garbage etc.' in regard to the municipal utilities and the 2017 lease specified 'water, sewage & garbage removal' by the municipality.

The tenant said the utilities he was being charged were actually part of the property tax which is the landlord's responsibility. The tenant has the normal utilities of gas, hydro and internet in his name. I discussed with the landlord the fact that the wording in the 2015 lease was too vague as it had not included the sewage or recycle responsibility. He felt that "etc." covered those charges which were \$311 and \$55 respectively. The tenant said they did not want to have to vacate as children were in school and he was prepared to pay what was required. After further negotiation and discussion between the parties, they agreed to settle on the following terms and conditions.

Settlement Agreement:

1. The tenant will pay \$861.49 to the landlord by 5:30 p.m. on Friday, May 12th. This represents \$616 owed for 2016 utilities and \$245.49 for unpaid utilities to May 2017.

2. The tenant will pay \$81.83 per month in addition to the rent of \$2100 a month for the remaining months in 2017.
3. The landlord will be issued an Order of Possession effective May 19, 2017 which he agrees not to enforce if the tenant pays the outstanding utilities as agreed.

Analysis:

The Notice to End a Residential Tenancy is based on non-payment of rent or utilities. I find the tenant owes utilities of \$616 for 2016 and \$245.49 to the end of May 2017. Although the tenant contended they were part of property tax as they were for water, sewage and garbage, I find he signed the lease agreeing to pay these charges so he is responsible for them even if they may not be in other lease agreements.

Pursuant to the above noted agreement, I grant the landlord an Order for Possession effective May 19, 2017 which will not be enforced provided the tenant pays as he agreed.

I note the parties voluntarily entered this agreement after at least 30 minutes of negotiation.

Conclusion:

I grant the landlord an Order for Possession effective May 19, 2017 which will not be enforced provided the tenant pays as agreed. No filing fee is recovered as this was a settlement agreement. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

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: May 09, 2017

Residential Tenancy Branch