



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, FF; CNR, OLC

Introduction

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

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

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

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated May 18, 2017 ("10 Day Notice") pursuant to section 46; and
- an order requiring the landlord to comply with the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 62.

The landlord and her agent, JJ (collectively "landlord") 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 her agent had authority to speak on her behalf at this hearing. This hearing lasted approximately 66 minutes in order to allow both parties to negotiate a full settlement of both applications.

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 tenant confirmed that he did not receive the cheques or text messages submitted by the landlord in her written evidence package. I notified both parties that I could not consider this evidence at the hearing because the landlord failed to supply a tracking number for the registered mailing. In any event, I was not required to consider any evidence because both parties settled these applications between themselves.

Pursuant to section 64(3)(c) of the *Act*, I amend the landlord's application to add a claim for a monetary order for unpaid rent, as the landlord mistakenly forgot to mark the checkbox on the

application but explained she was seeking unpaid rent and the amount in the “details of the dispute” portion of her application. The tenant consented to this amendment.

Settlement Terms

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. 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. The tenant agreed to pay the landlord a total of \$4,250.00 for rent from March 1 to July 31, 2017 on the following terms:
 - a. The tenant will pay the landlord \$3,000.00 by way of a certified cheque to be mailed out by July 18, 2017;
 - b. The tenant will pay the landlord \$1,250.00 by way of a certified cheque to be mailed out by July 21, 2017;
 - c. The above rent amount includes an \$800.00 rent reduction for the oven and refrigerator issues at the rental unit;
 - d. The tenant will mail the above payments to the landlord's agent's business address (which was confirmed during the hearing and is contained on the front page of this decision) by way of registered mail which includes tracking numbers and signatures upon delivery;
 - e. The landlord agreed to accept the above rent payments from the tenant;
3. The tenant agreed that he does not require any repair or replacement of the oven and refrigerator issues at the rental unit for the remainder of this tenancy;
4. The landlord agreed to bear the cost of the \$100.00 filing fee paid for his application;
5. 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.

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 and any other occupants fail to vacate the rental premises by 1:00 p.m. on July 31, 2017. 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 10 Day Notice, dated May 18, 2017, is cancelled and of no force or effect.

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 landlord's favour in the amount of \$4,250.00. I deliver this Order to the landlord in support of the above agreement for use **only** in the event that the tenant fails to abide by condition #2 of the above agreement. The tenant must be served with a copy of this Order. 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 landlord must bear the cost of the \$100.00 filing fee paid for this application.

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: July 17, 2017

Residential Tenancy Branch