



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW DECISION

Dispute Codes CNC

Introduction

On May 3, 2017, the Tenants made an Application for Dispute Resolution (the “Application”) to cancel a 1 Month Notice to End Tenancy for cause (the “1 Month Notice”). As a result a hearing was scheduled to determine the matter on June 9, 2017.

However, on June 9, 2017, the Tenants failed to appear the hearing. The Arbitrator who conducted that hearing accepted the undisputed evidence of the Landlord. As the Tenants failed to appear for that hearing, the Arbitrator issued the Landlords with an Order of Possession to end the tenancy for the end of June 2017. The Decision and Order of Possession were dated June 9, 2017.

On June 13, 2017, the Tenants filed an Application for Review Consideration for a review of the Decision and Order of Possession on the basis that they were unable to appear for the June 9, 2017 hearing.

The Arbitrator who had conduct of the Tenants’ Review Application determined that the Tenants had provided sufficient evidence to show that they were unable to appear for the June 9, 2017 hearing. That reviewing Arbitrator then granted the Tenants’ Application to be determined again in this review hearing.

Both parties were sent the June 15, 2017 Review Consideration Decision detailing the reasons for having this review hearing and that the Decision and Order of Possession dated June 9, 2017 were suspended pending the outcome of this review hearing.

The Tenants, the Landlord, the Co-Landlord, and an agent for the Landlord appeared for the hearing. However, only the male Landlord and the agent for the Landlord provided affirmed testimony. The hearing process was explained to the participants and no questions were asked as to how the hearing would be conducted.

The Landlord's agent confirmed receipt of the: Tenants' Application; Tenants' original evidence; the Tenants' Review Application evidence; and the Tenants' additional evidence served prior to this review hearing. The male Tenant confirmed receipt of the Landlord's original evidence.

Section 63 of the *Residential Tenancy Act* (the "Act") allows an Arbitrator to 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. Accordingly, before I invited the parties to provide evidence and submissions on the reasons for issuing the 1 Month Notice, I offered the parties an opportunity to resolve this matter by way of mutual agreement between them. The parties engaged into a discussion, turned their minds to compromise, and agreed that mutual resolution was a more appropriate form of resolution.

Settlement Agreement

1. The parties agreed to end the tenancy on **September 30, 2017 at 1:00 p.m.** which gives the Tenants sufficient time to vacate the rental unit and find new accommodation.
2. The Tenants are allowed to vacate the rental unit on **any** earlier date without a full rental months of notice, provided they give the Landlord written notice of the earlier departure date.
3. The Landlord agreed that if the tenancy were to end earlier, the Landlord will prorate any rent already paid by the Tenants or allow the Tenants to pay rent only for the time they occupy the rental unit until their departure on the earlier date. Vacating the suite requires the Tenants to remove all their belongings and give back to the Landlord vacant possession of the rental unit.
4. The Tenants are still responsible to pay rent for duration of the tenancy until it ends.
5. The parties still retain all of the rights, obligations and remedies under the Act. For example, if the Tenants fail to pay rent, the Landlord may seek to end the tenancy earlier with a notice to end tenancy for unpaid rent.

In order to give effect to the above agreed conditions, the Landlord is issued with an Order of Possession which is dated effective for September 30, 2017. This order may be enforced only if the Tenants fail to vacate the rental unit by the agreed date. Copies of the Order are attached to the Landlord's copy of this Review Decision. As the parties reached mutual agreement on the ending of the tenancy, the parties agreed to withdraw the 1 Month Notice and the Tenants accordingly withdrew their Application.

I did not make any legal findings on the 1 Month Notice or the Tenants' Application. Pursuant to Section 82(3) of the Act, the previous Decision and Order of Possession dated June 9, 2017 are now set aside and of no force or effect. These are now replaced with this Review Decision and the accompanying Order of Possession, both dated July 24, 2017.

This agreement is legally binding on the parties. The parties confirmed their voluntary agreement and understanding of mutual resolution in this manner both during and at the conclusion of the hearing. This file is now closed.

This Review Decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: July 24, 2017

Residential Tenancy Branch