



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1118486 BC LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPL, OPB, FF (Landlords' Application)
CNL (Tenant's Application)

Introduction

This hearing was scheduled in response to an Application for Dispute Resolution made by the Tenant on June 5, 2017 and by the Landlords on July 25, 2017. The Landlords applied for an Order of Possession for the Landlord's use of the property and for a mutual agreement to end the tenancy, and to recover the filing fee. The Tenant applied to cancel a 2 Month Notice to End Tenancy for Landlord's Use of the Property (the "2 Month Notice").

The Tenant and the Landlord appeared for the hearing and provided affirmed testimony. Both parties confirmed receipt of each other's Application served prior to the hearing. The hearing process was explained to the parties and they had no questions about the proceedings. Both parties were given a full opportunity to present their evidence, make submissions to me, and cross examine the other party on the above issues.

During the hearing, the Tenant confirmed that she had been personally served with the 2 Month Notice on May 30, 2017. The Tenant had applied within the 15 day time limit of the *Residential Tenancy Act* (the "Act") to dispute the 2 Month Notice. However, the parties also confirmed they had signed a mutual agreement to end the tenancy for July 31, 2017 and this agreement was made by the Tenant on the basis that the Landlord could use the Tenant's security deposit in lieu of June 2017 rent. The Tenant also confirmed that she had received her compensation payable under the 2 Month Notice by withholding rent for July 2017 and that she had paid rent for August 2017 which had been accepted by the Landlord for use and occupancy only.

The Tenant acknowledged that she had signed a mutual agreement to end the tenancy and that she was now an over holding Tenant. However, the Tenant asked the mutual agreement be extended to September 30, 2017 to allow her more time to find

accommodation. The Landlord was asked to consider this proposal and after a short discussion, the parties agreed to end the tenancy pursuant to the following agreement.

Settlement Agreement

Section 63 of 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.

The parties agreed that the tenancy will end on September 30, 2017 at 1:00 p.m. at which point the Tenant is required to provide the Landlords with vacant possession of the rental unit. In order to give effect to this agreement, the Landlords are issued with an Order of Possession effective for this date and time. This order may be filed and enforced in the Supreme Court of British Columbia as an order of that court if the Tenant fails to provide vacant possession of the rental unit. The Tenant is cautioned that she may also be responsible for the costs associated with enforcing the order. Copies of this order are attached to the Landlords' copy of this Decision.

The parties agreed that the Tenant is still required to pay full rent for September 2017 in the amount of \$775.00 and \$50.00 for utilities pertaining to August and September 2017 usage (\$25.00 per month). The Landlord is at liberty to end the tenancy earlier than the agreed date through dispute resolution if the Tenant fails to pay rent with a notice to end tenancy for unpaid rent. The Landlord withdrew his claim to recovery the filing fee.

Conclusion

The parties agreed to end the tenancy on September 30, 2017. The Landlord is issued with an Order of Possession effective for this date. The parties confirmed during and at the conclusion of the hearing that this agreement was made voluntarily and in full satisfaction of the Applications before me. This 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: August 30, 2017

Residential Tenancy Branch