



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET; CNR, LRE

Introduction

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

- an early end to tenancy and an order of possession, pursuant to section 56.

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

- cancellation of the landlords' 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated December 2, 2017 ("10 Day Notice"), pursuant to section 46;
- an order to suspend or set conditions on the landlords' right to enter the rental unit, pursuant to section 70.

The two landlords, male and female (collectively "landlords") and the tenant and her advocate attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. This hearing lasted approximately 62 minutes in order to allow both parties to negotiate a full settlement of this matter and due to repeated interruptions and inappropriate behaviour by the tenant.

The tenant confirmed receipt of the landlords' application for dispute resolution hearing package. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was duly served with the landlords' application.

The tenant confirmed receipt of the landlords' 10 Day Notice. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was duly served with the landlords' 10 Day Notice.

During the hearing, both parties confirmed that there is a "future hearing" scheduled for the tenant's application on January 17, 2018 at 9:00 a.m. (as noted above). Both parties agreed to settle the tenant's application at this hearing and confirmed that they would not attend the future hearing because it is cancelled by way of this agreement.

Preliminary Issue – Recording of the Hearing

During the hearing, the tenant alleged that the female landlord was recording the hearing, which the female landlord denied. During the hearing, I notified both parties that recording of the conference was not allowed, as per the Residential Tenancy Branch ("RTB") *Rules of Procedure*. There is a reference to the *Rules of Procedure* on both parties' notices of hearing, including a website link and a reference to contact the RTB or a Service BC office.

For both parties' information, I have reproduced Rules 6.11 and 6.12 of the RTB *Rules of Procedure* below (my emphasis added):

6.11 Recording prohibited

Persons are prohibited from recording dispute resolution hearings, except as allowed by Rule 6.12. Prohibited recording includes any audio, photographic, video or digital recording.

6.12 Official transcript

*A party requesting an official transcript by an accredited Court Reporter must make a written request stating the reasons for the request to the other party and to the Residential Tenancy Branch directly or through a Service BC Office **not less than seven days before the hearing.***

An arbitrator will determine whether to grant the request and will provide written reasons to all parties and issue any necessary orders.

If permission is granted, the party making the request must:

- a) prior to the hearing, provide the Residential Tenancy Branch with proof of the Court Reporter's accreditation;*
- b) make all necessary arrangements for attendance by the accredited Court Reporter and their necessary equipment;*
- c) pay the cost of the accredited Court Reporter's attendance at the dispute resolution hearing;*
- d) pay the cost of the Court Reporter's services and the cost of transcripts; and*
- e) provide all parties and the Residential Tenancy Branch with official copies of the transcript.*

Preliminary Issue – Inappropriate Behaviour by the Tenant during the Hearing

Rule 6.10 of the RTB *Rules of Procedure* states the following:

6.10 Interruptions and inappropriate behaviour at the dispute resolution hearing

Disrupting the hearing will not be permitted. The arbitrator may give directions to any person in attendance at a hearing who is rude or hostile or acts inappropriately. A person who does not comply with the arbitrator's direction may be excluded from the dispute resolution hearing and the arbitrator may proceed in the absence of that excluded party.

At the outset of the hearing, I asked both parties to remove their telephones from speakerphone because it causes echoing and feedback during the conference. The tenant initially stated that she could not hear without speakerphone but then confirmed that she could hear without the speakerphone. I explained that I needed to be able to properly hear during the conference in order to conduct the hearing and the speakerphone interfered with that ability.

I notified both parties that they could hand their telephone to another party if they wanted to make any submissions, or they could use another telephone handset on the same line, or they could call in on a different telephone line in order to listen and provide submissions.

Throughout the hearing, the tenant continuously interrupted me, often arguing and debating issues rather than answering my questions. She spoke in Italian at one point, claiming that she had the right to do so. The tenant refused to answer my questions, made rude comments to me and the landlords, ignored her advocate's recommendation to answer my questions, and attempted to repeatedly delay the conference. She claimed that she did not understand my comments and questions, despite the fact that I not only repeated myself numerous times but I rephrased my comments and questions numerous times in order for the tenant to understand. The tenant's advocate attempted many times to explain the same matters to the tenant and to intervene in order to provide assistance to the tenant and me.

I caution the tenant not to engage in the same rude, inappropriate and disruptive behaviour at any future hearings at the RTB, as this behaviour will not be tolerated and she may be excluded from future hearings. In that event, a decision will be made in the absence of the tenant.

If possible, the tenant may wish to consider having an advocate or agent assist her at future hearings and even speak on her behalf in order to avoid delaying the conferences and causing disruptions.

For the tenant's reference, Rule 6.7 of the RTB *Rules of Procedure* states the following:

6.7 Party may be represented or assisted

A party to a dispute resolution hearing may be represented by an agent or a lawyer and may be assisted by an advocate, an interpreter, or any other person whose assistance the party requires in order to make his or her presentation.

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, engaged in a conversation, 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 4:00 p.m. on January 31, 2018, by which time the tenant and any other occupants will have vacated the rental unit;
2. The tenant agreed to pay the landlords \$650.00 by December 30, 2017, and the landlords agreed to accept this payment towards rent for the period from December 1 to 31, 2017;
3. The tenant agreed to pay the landlords \$650.00 by January 1, 2018, and the landlords agreed to accept this payment towards rent for the period from January 1 to 31, 2018;
4. Both parties agreed that the landlords' 10 Day Notice, dated December 2, 2017, is cancelled and of no force or effect. This notice is the subject of the tenant's application which is scheduled for the future hearing on January 17, 2018;

5. Both parties agreed that this settlement agreement constitutes a final and binding resolution of the landlords' application at this hearing;
6. Both parties agreed that this settlement agreement constitutes a final and binding resolution of the tenant's application scheduled for a future hearing on January 17, 2018 at 9:00 a.m., the file number of which appears on the front page of this decision, and that future hearing is hereby cancelled by way of verbal agreement from the tenant 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 and binding and enforceable, which settle all aspects of this dispute.

The tenant attempted to affirm the above settlement terms in the Italian language, to which I responded that all RTB proceedings are conducted in English and the tenant had been speaking fluently in English during the entire conference. I also confirmed that the tenant did not raise any issues with difficulty speaking English at any time during the conference, nor did she bring an Italian-English language interpreter with her to the hearing. The tenant's advocate was present throughout the hearing and spoke fluently in English directly with the tenant during the entire conference.

I reconfirmed with the tenant a number of times during the hearing that she was agreeable to this settlement, that she fully understood all of the settlement terms, that she was making this settlement of her own free will, and that she did not feel pressured to settle. I spent approximately 40 minutes of the 62-minute hearing time explaining the concept of settlement to the tenant, confirming the settlement terms with her, ensuring that she understood the terms, and answering the tenant's repeated questions about the settlement and other unrelated issues.

During the hearing, the tenant confirmed that she would be vacating the rental unit by 4:00 p.m. on January 31, 2018, and confirmed her understanding that she would be required to vacate regardless of the weather conditions at the time, which she referred to as an "act of God."

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 landlords **only** if the tenant and any other occupants fail to vacate the rental premises by 4:00 p.m. on January 31, 2018. The landlords are provided with this Order in the above terms and 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 4:00 p.m. on January 31, 2018. 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 landlords' 10 Day Notice, dated December 2, 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 landlords' favour in the amount of \$650.00, the current amount owing for this tenancy for December 2017 rent. I deliver this Order to the landlords in support of the above agreement for use **only** in the event that the tenant fails to pay the landlords \$650.00 as per

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.

I notified the landlords that if they wished to obtain a monetary order for January 2018 rent, if it is unpaid, they would be required to make an application in the future. I informed them that I could only award a monetary order for past unpaid rent for December 2017, not future rent which is not yet due under the tenancy agreement.

The upcoming hearing on January 17, 2018 at 9:00 a.m. for the tenant's application, the file number of which appears on the front page of this decision, is hereby cancelled. Both parties confirmed that they would not attend the future hearing because it is cancelled by way of this agreement.

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: December 14, 2017

Residential Tenancy Branch