



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNR ERP PSF MT CNC

Introduction

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

- more time to make an application to cancel the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 66;
- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47; and
- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- an order to the landlord to make repairs to the rental unit pursuant to section 33; and
- an order to the landlord to provide services or facilities required by law pursuant to section 65.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing package ("Application") and evidence. In accordance with sections 88 and 89 of the *Act*, I find that the landlord was duly served copies of the tenant's application and evidence. The tenant did not submit any written evidence for this hearing.

As the tenant confirmed receipt of the 1 Month Notice dated February 19, 2018 and the 10 Day Notice dated March 2, 2018, I find that both documents were duly served to the tenant in accordance with section 88 of the *Act*.

Preliminary Issue: Adjournment of Hearing

At the outset, the tenant made an application requesting an adjournment as the tenant did not have time to submit any evidence for the hearing.. The tenant testified that she did not have the access or knowledge to submit the evidence online, and she had attempted to utilize the services available to her, but was unsuccessful.

Rule 6 of the Residential Tenancy Branch Rules of Procedure state that the “Residential Tenancy Branch will reschedule a dispute resolution proceeding if written consent from both the applicant and the respondent is received by the Residential Tenancy Branch before noon at least 3 business days before the scheduled date for the dispute resolution hearing”. While the tenant testified that he had been out of town for approximately one week, he had not taken steps to attempt to adjourn this proceeding beforehand. Nor did the tenant have an agent attend to either explain why he could not attend or represent him at the hearing, subject to Rule 6.

The criteria provided for granting an adjournment, under Rule 6.4 are;

- whether the purpose for the adjournment is sought will contribute to the resolution of the matter in accordance with the objectives set out in Rule 1...
- whether the adjournment is required to provide a fair opportunity for a party to be heard, including whether the party had sufficient notice of the dispute resolution hearing...
- the degree to which the need for the adjournment arises out of the intentional actions or neglect of the party seeking the adjournment; and
- the possible prejudice to each party.

Although the tenant was not able to submit evidence for this hearing, I find that the tenant has failed to demonstrate that her inability submit evidence for this hearing was not due to the intentional actions or neglect.

As the landlord had served the Notice to End Tenancies in February and March 2018, and as the landlord was ready to proceed today, find the landlord would be significantly prejudiced by a delay in this matter. I find that both parties had sufficient notice of the dispute resolution hearing.

The request for an adjournment was not granted. The hearing proceeded.

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 or an order. 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 entered into a mutual agreement that this tenancy will end on May 31, 2018 at 12:00 p.m., by which date the tenant and any other occupants will have vacated the rental unit.
2. The landlord withdrew the 1 Month Notice dated February 19, 2018, and the 10 Day Notice dated March 2, 2018.
3. The parties agreed that this tenancy ends by way of their mutual agreement to end this tenancy and not on the basis of the landlord's 1 Month Notice, dated February 19, 2018 and the 10 Day Notice dated March 2, 2018.
4. Both parties agreed that this settlement agreement constituted a final and binding resolution of the tenant's application.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties. Both parties testified at the hearing that they understood and agreed to the above terms, free of any duress or coercion. Both parties testified 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 discussed with them during the hearing, I issue an Order of Possession to the landlord, which is to take effect by 12:00 p.m. on May 31, 2018. The landlord is provided with this Order in the above terms and the tenant(s) must be served with this Order in the event that the tenant(s) does not abide by condition #1 of the above settlement. Should the tenant(s) 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 1 Month Notice, dated February 19, 2018, and the landlord's 10 Day Notice dated March 2, 2018 are cancelled and are of no force or effect.

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: April 6, 2018

Residential Tenancy Branch