



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDCT

Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) that was filed by the Tenant under the *Residential Tenancy Act* (the “Act”), seeking cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10 Day Notice”) and a Monetary Order for repairs completed in the rental unit.

The hearing was convened by telephone conference call and was attended by the agent for the Landlord (the “Agent”) and the Tenant, both of whom provided affirmed testimony. At the request of the parties, copies of the decision and any orders issued in their favour will be e-mailed to them at the e-mail addresses provided by them in the hearing.

Preliminary Matters

Preliminary Matter #1

At the outset of the hearing, I identified that the Respondent listed in the Application is not the landlord listed on the tenancy agreement. Both parties were in agreement that the owner and landlord of the property is M.R. as listed in the tenancy agreement and that the Respondent, P.R., is the landlord’s agent. Section 1 of the *Act* includes in the definition of a landlord the owner of the rental unit, the owner’s agent or another person who, on behalf of the landlord, permits occupation of the rental unit under a tenancy agreement, or exercises powers and performs duties under this *Act*, the tenancy agreement or a service agreement.

As a result of the above and in the absence of evidence to the contrary, I find that the Respondent meets the definition of a landlord pursuant to section 1 of the *Act*. However, for the sake of clarity in this decision, the owner M.R. shall be referred to as the Landlord and P.R. will be referred to as the Agent. With the agreement of the parties, the Application was also amended to include the owner of the rental unit.

Preliminary Matter #2

The Tenant filed an Amendment to an Application for Dispute Resolution (an “Amendment”) on May 8, 2018, seeking to add a claim for harassment and loss of quiet enjoyment. Section 2.3 of the Rules of Procedure states that claims made in an Application must be related to each other and that arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

As the Tenant applied to cancel a 10 Day Notice and for compensation related to the 10 Day Notice, I find that the priority claims relate to whether the tenancy will continue and the payment of rent. I find that the Amendment sought by the Tenant is not sufficiently related to rent or the continuation of the tenancy, and as a result, I exercise my discretion to dismiss the Tenant’s claim for harassment and loss of quiet enjoyment with leave to re-apply.

Settlement

The opportunity for settlement was discussed with the parties during the hearing. The parties were advised on several occasions during the hearing that there is no obligation to resolve the dispute through settlement, but that pursuant to section 63 of the *Act*, I could assist the parties to reach an agreement, which would be documented in my Decision and supporting orders.

During the hearing, the parties mutually agreed to settle the Tenant’s Application seeking cancellation of a 10 Day Notice and a Monetary Order for repairs completed in the rental unit as follows:

1. The parties agree the tenancy will end on May 22, 2018, at 11:59 PM.
2. The Tenant agrees to vacate the rental unit by 11:59 PM on May 22, 2018.
3. The Agent agrees that the Tenant was entitled to deduct \$175.00 from the rent due for March, 2018, and that the Landlord will not seek compensation for this amount.
4. The Tenant agrees that he owes the Landlord \$2,400.00 in rent for April and May, 2018.
5. The Agent agrees to return the Tenant’s security deposit, in full, if the rental unit is reasonably clean and undamaged at the end of the tenancy. However, the Landlord reserves the right to claim against the security deposit pursuant to the *Act*, if the rental unit is not reasonably clean and undamaged.

6. The Tenant withdraws their Application seeking cancellation of a 10 Day Notice and a Monetary Order for repairs completed in the rental unit in full as part of this mutually agreed settlement.

This settlement agreement was reached in accordance with section 63 of the *Act*.

Conclusion

I order the parties to comply with the terms of their mutually settled agreement described above.

In support of the settlement described above, and with the agreement of the parties, I grant an Order of Possession to the Landlord effective **11:59 PM on May 22, 2018**. The Landlord is provided with this Order in the above terms and the Tenant must be served with this Order as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

In support of the settlement described above, and with the agreement of the parties, I grant the Landlord a Monetary Order in the amount of **\$2,400.00**. The Landlord is provided with this Order in the above terms and the Tenant must be served with this Order as soon as possible. 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.

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: May 22, 2018

Residential Tenancy Branch