



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

This hearing dealt with the tenants' application pursuant to section 46 of the *Residential Tenancy Act* (the *Act*) for cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice). At the hearing, Tenant SP (the tenant) explained that she was only intending to apply for an extension of time to pay rent that had become owing. I noted that the matter before me was whether the landlord's 10 Day Notice was valid or whether it ought to be cancelled, and whether the tenancy should be ended on that basis.

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 tenant confirmed that they had full authority to act on behalf of Tenant GO, the other tenant identified on the tenants' application.

The tenant confirmed that the tenants received the landlord's 10 Day Notice for unpaid rent owing as of March 15, 2018, by registered mail, sent by the landlord on or about March 16, 2018. I find that the tenants were duly served with this Notice in accordance with section 88 of the *Act*. I also note that the landlord gave undisputed sworn testimony and written evidence that they also sent the tenants a number of other 10 Day Notices during the latter stages of this tenancy. As the landlord confirmed that he received a copy of the tenants' dispute resolution hearing package sent by the tenants by registered mail on March 29, 2018, I find that the landlord was duly served with this package in accordance with section 89 of the *Act*. Although nothing turned on this matter, the tenant said that she did not receive a copy of the landlord's written evidence package, which the landlord testified he sent the tenants by registered mail on May 22, 2018.

Issues(s) to be Decided

Should the landlord's 10 Day Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

Background and Evidence

The tenant gave undisputed sworn testimony that the tenants entered into this two year fixed term tenancy on July 15, 2016. Monthly rent is set at \$3,500.00, payable in advance on the 15th of each month. The landlord continues to hold the tenant's \$1,750.00 security deposit paid when this tenancy began.

The tenant confirmed that the tenants did not pay the \$2,150.00 identified as owing on the landlord's 10 Day Notice. The tenant did not dispute the landlord's assertion that \$3,700.00 in rent remains owing at the time of this hearing.

Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if in the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded the form of a decision or an order. 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. The tenant reiterated that she was fully authorized to represent the interests of the other tenant identified in the tenant's application.

During this hearing, the parties reached a final and binding resolution of all issues currently under dispute under the following terms:

1. Both parties agreed that this tenancy will end by 11:00 a.m. on July 15, 2018, by which time the tenants and any and all occupants on the premises will have vacated the rental unit.
2. The tenants agreed to pay the landlord \$3,700.00, the amount they agreed was currently owing, by e-transfer by July 31, 2018.
3. In addition to the \$3,700.00 outlined above in Clause 2 of their settlement agreement, the tenants also committed to pay the landlord \$3,500.00 in monthly rent, which becomes due on June 15, 2018, as per the terms of their tenancy agreement.
4. Both parties agreed that this constituted a final and binding resolution of all issues currently under dispute arising out of this tenancy and further agreed that

they did so of their own free will and without any element of coercion having been applied.

Conclusion

To give effect to the settlement reached between the parties and as discussed at the hearing, I issue the attached Order of Possession to be used by the landlord if the tenants do not vacate the rental premises in accordance with their agreement. The landlord is provided with these Orders in the above terms and the tenant(s) must be served with an Order in the event that the tenants do not vacate the premises by the time and date set out in their agreement. 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.

To give effect to the settlement reached between the parties and as discussed at the hearing, I issue the attached monetary Order to the landlord to be used **only** if the tenants do not comply with the monetary terms of Clause 2 of their agreement by July 31, 2018. The landlord is provided with these Orders in the above terms and the tenant(s) must be served with these Orders in the event that the tenants do not abide by the Clause 2 of their agreement. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced by the Small Claims Court of British Columbia.

The landlord is at liberty to pursue any non-compliance with the terms of Clause 3 of the agreement through a separate application for dispute resolution to the Residential Tenancy Branch.

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: June 07, 2018

Residential Tenancy Branch