



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPT OLC MNDCT MNRT FFT

Introduction

On October 29, 2018, an arbitrator appointed pursuant to the *Residential Tenancy Act* (the *Act*) adjourned the tenant's application to allow both parties an opportunity for legal consultation. I have been delegated responsibility to hear the tenant's application today for the following:

- a monetary order for compensation for losses or other money owed under the *Act*, regulation or tenancy agreement pursuant to section 67;
- a monetary order for the cost of emergency repairs to the rental unit pursuant to section 33;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- an Order of Possession of the rental unit pursuant to section 54; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord's counsel R.P. primarily spoke on behalf of the landlord.

As both parties were present, service of documents was confirmed. The tenant testified that the landlord was served with the Notice of Dispute Resolution and his evidence by Canada Post registered mail in September 2018, which was confirmed received by the landlord. The landlord testified that the tenant was served with the landlord's evidence by leaving it with a person presumed to be an employee of the tenant at the tenant's place of employment, on September 29 or 30, 2018. The tenant disputed receipt of the landlord's evidence. Based on the testimonies of the parties, I find that the landlord was

served with the notice of this hearing in accordance with section 89 of the *Act*. As the parties resolved their dispute through an agreed upon settlement, I make no findings on the service of evidence in this matter as it was not relevant to the resolution of the dispute.

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 and all claims arising from this tenancy**:

1. The landlord agreed to pay to the tenant the amount of \$7,500.00 in two installments as follows:
 - First installment of \$4,000.00 on November 30, 2018 between 10:00 a.m. and 3:00 p.m. in the form of a cheque delivered to the tenant's address for service (address noted on the cover sheet of this Decision).
 - Second installment of \$3,500.00 on December 17, 2018 between 10:00 a.m. and 3:00 p.m. in the form of a cheque delivered to the tenant's address for service.
2. The tenant agreed to provide the landlord with vacant possession of the rental property (address noted on the cover sheet of this Decision) by no later than 1:00 p.m. on December 31, 2018.
3. The tenant agreed that the tenant's application for dispute resolution in its entirety is cancelled as it has been settled in full satisfaction by way of this agreement.
4. Both parties agreed that the terms of this settlement as outlined above constitute a final and binding resolution of the tenant's application and all issues currently under dispute at this time, and that no further claims will be made by the tenant or the landlord whatsoever arising from this tenancy.
5. Both parties confirmed that they agreed to these settlement terms free of any duress or coercion.

Conclusion

To give effect to the settlement reached between the parties and as advised to both parties during the hearing, I issue the following Orders to the parties:

- 1) I issue to the tenant the attached Monetary Order in the amount of \$7,500.00 to be served on the landlord by the tenant **ONLY** if the landlord fails to pay the tenant as per the terms of the settlement agreement, and **ONLY** if the tenant abides by the terms of the settlement agreement and provides vacant possession of the rental property to the landlord per the terms of the settlement agreement.

Should the landlord 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. If the landlord only makes a partial payment and not the total amount, this partial payment must be accounted for if the tenant is enforcing the Monetary Order.

- 2) I issue to the landlord the attached Order of Possession to be served on the tenant **ONLY** if the tenant fails to provide vacant possession of the rental property per the terms of the settlement agreement, and **ONLY** if the landlord abides by the terms of the settlement agreement and makes payment to the tenant per the terms of the settlement agreement.

Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: November 15, 2018

Residential Tenancy Branch