



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, MNRL-S, MNDL, MNDCL, FFL; MT, CNL, OLC, ERP, RP, PSF, LRE, AAT

Introduction

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

- an order of possession for landlord's use of property, pursuant to section 49;
- a monetary order for unpaid rent, damage to the rental unit, and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- authorization to retain the tenant's security deposit, pursuant to section 38; and
- authorization to recover the filing fee for her application, pursuant to section 72.

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

- more time to make an application to cancel the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property, dated September 1, 2018 ("2 Month Notice"), pursuant to section 66;
- cancellation of the landlord's 2 Month Notice, pursuant to section 49;
- an order requiring the landlord to comply with the *Act*, *Regulation* or tenancy agreement, pursuant to section 62;
- an order requiring the landlord to make emergency and regular repairs to the rental unit, pursuant to section 33;
- an order requiring the landlord to provide services or facilities required by law, pursuant to section 65;
- an order restricting the landlord's right to enter the rental unit, pursuant to section 70; and
- an order to allow access to or from the rental unit or site for the tenant or the tenant's guests, pursuant to section 70.

Both parties 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 84 minutes.

Both parties confirmed receipt of the other party's application for dispute resolution hearing package. In accordance with sections 89 and 90 of the *Act*, I find that both parties were duly served with the other party's application.

The tenant confirmed that she did not receive the landlord's second written evidence package. As the parties settled this matter between themselves, I do not find it necessary to record findings of service regarding the landlord's second written evidence package, as I was not required to consider it.

Settlement Terms

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, 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 1:00 p.m. on December 3, 2018, by which time the tenant and any other occupants will have vacated the rental unit;
2. Both parties agreed that this tenancy is ending pursuant to the landlords' 2 Month Notice, dated September 1, 2018;
3. The landlord agreed that the tenant is entitled to one month's free rent compensation pursuant to section 51 of the *Act* and the landlord's 2 Month Notice on the following term:
 - a. The tenant was not required to pay any rent to the landlord from October 1 to 31, 2018;
4. The tenant agreed to pay rent of \$650.00 for November 1 to 30, 2018 and rent of \$62.90 for December 1 to 3, 2018, by way of e-transfer, according to the following terms:
 - a. The tenant will pay \$262.90 by December 7, 2018;
 - b. The tenant will pay \$200.00 by January 11, 2019;

- c. The tenant will pay \$250.00 by February 8, 2019;
- 5. The landlord agreed to bear the cost of the \$100.00 filing fee paid for her application;
- 6. Both parties agreed that this settlement agreement constitutes a final and binding resolution of both applications 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, binding and enforceable, which settle all aspects of this dispute.

I reconfirmed with the tenant a number of times during the hearing that she wanted to settle both applications of her own free will. Most of the 84-minute hearing time was spent answering the tenant's questions, listening to the tenant's statements and offers, and waiting for the tenant to make decisions regarding the settlement.

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 landlord **only** if the tenant and any other occupants fail to vacate the rental premises by 1:00 p.m. on December 3, 2018. 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 1:00 p.m. on December 3, 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.

In order to implement the above settlement reached between the parties and advised to both parties during the hearing, I issue a monetary Order in the landlord's favour in the amount of \$650.00, the current amount owing for November 2018. I deliver this Order to the landlord in support of the above agreement for use only in the event that the tenant does not abide by condition #4 of the above monetary agreement. The tenant must be served with a copy of this Order as soon as possible after a failure to comply with condition #4 of the above monetary agreement. 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 landlord that she would be required to file a new application to recover the future unpaid rent of \$62.90 for December 2018, if necessary.

The landlord must bear the cost of the \$100.00 filing fee paid for her application.

As advised to the landlord during the hearing, the landlord's premature application for a monetary order for damage to the rental unit, and for compensation for damage or loss under the *Act, Regulation* or tenancy agreement, is dismissed with leave to reapply.

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 29, 2018

Residential Tenancy Branch