



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FFT

Introduction

On November 1, 2018, the Tenant submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) to cancel a One-Month Notice to End Tenancy for Cause, (the “Notice”) dated October 30, 2018, and to recover the filing fee paid for this application. The matter was set for a conference call.

Both the Landlord, the Tenant and the Tenant’s Advocate (the “Tenant”) attended the hearing, and all parties were affirmed to be truthful in their testimony. The Landlord and Tenant were provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

- Should the Notice dated October 30, 2018, be cancelled pursuant to section 49 of the *Act*?
- If not, Is the Landlord entitled to an Order of Possession, pursuant to section 55 of the *Act*?
- Is the Tenant entitled to recover the cost of the filing fee?

Background and Evidence

The parties testified that the tenancy began in June 2017 and that there was no written tenancy agreement for this tenancy. The parties agreed that a tenancy exists between them; however, they disagreed as to the material term of that tenancy.

Both parties agreed that the Landlord issued the Notice on October 30, 2018. The Notice explains that the Tenant had ten days to dispute the Notice. The Tenant filed to dispute the notice on November 1, 2018.

Section 63 of the *Act* allows for the parties to consider a settlement to their dispute during the hearing, and that any settlement agreement reached during the hearing may be recorded in the form of a decision and an order. In accordance with this, an opportunity for a settlement discussion was presented, and the parties came to an agreement on a settlement that would resolve their dispute.

During the hearing, the parties agreed to the following settlement:

1. The Landlord and the Tenant agreed that not smoking in the rental unit or on the rental property is a material term of their tenancy agreement.
2. The Tenant agreed to ensure that she and her guests do not smoke in the rental unit or on the rental property.
3. The Landlord agreed to ensure that sufficient hot water is supplied to the Tenant's rental unit.
4. The Tenant agreed to contact the local gas company and have an account set up in her name, for the rental unit, as of the date of this hearing.
5. The Tenant agreed to move out of the rental unit no later than April 1, 2019.
6. The Tenant may issue the Landlord a 30-Day written notice to end the tenancy before April 1, 2019.
7. The Tenant agreed to ensure that the hydro and gas account for the rental unit will be paid in full, up to the date she moves out of the rental unit.
8. The Notice dated October 30, 2018, is cancelled.

The above terms of the settlement agreement were reviewed with all parties at the end of the hearing, and all parties confirmed that they were entering into the settlement agreement on a voluntary basis. They also confirmed understanding of the terms of the settlement agreement as full and final settlement of this matter.

Section 72 of the *Act* gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Tenant and Landlord have agreed to a settlement of their dispute, I find that they should equally share the cost of this application. I award the Tenant the return of half of her filing fee, in the amount of \$50.00. The Tenant is allowed to take a one-time deduction of \$50.00, from her next payment of rent.

Analysis

In order to enforce the conditions of the settlement agreement reached between the Landlord and Tenant, an **Order of Possession** dated **April 1, 2019**, is granted to the Landlord to be served on the Tenant.

Conclusion

The parties are ordered to comply with the terms of the settlement agreement as outlined in this decision.

I grant the Tenant permission to take a one-time deduction of \$50.00, from her next month's rent.

I grant an Order of Possession to the Landlord to be served on the Tenant. The **Order of Possession** is effective not later than 1:00 p.m. on **April 1, 2019**. 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 after it is served, 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: December 11, 2018

Residential Tenancy Branch