



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, ERP, DRI, OLC, MNDCT, RR, FFT

Introduction

This hearing was scheduled to deal with a tenant's application to cancel a *2 Month Notice to End Tenancy for Landlord's Use of Property* along with several other remedies. Both parties appeared and were assisted during the hearing.

At the outset of the hearing, I determined that the Tenant's Application for Dispute Resolution, other required documents, and the tenant's evidence was not served upon the landlord until very late on December 14, 2018 and the landlord did not have sufficient opportunity to provide evidence in response to the tenant's application. The landlord requested the tenant's application be dismissed or adjourned.

The tenant's son who was assisting the tenant during the hearing implied the reason for late service upon the landlord was due to failure to receive the hearing documents from the Residential Tenancy Branch until December 13, 2018. I was not readily able to determine whether there was a failure on part of the Residential Tenancy Branch and I informed the parties that I may have to look into that issue and adjourn the hearing; however, I informed the parties that I was willing to help facilitate a mutual agreement with respect to the fate of this tenancy if the parties were willing to explore resolution of that issue during the remainder of the hearing. The parties were agreeable to exploring a mutually agreeable resolution with respect to that issue and they turned their minds to resolving the issue. After nearly 1.5 hours of hearing time I was able to facilitate a mutual agreement between the parties which I have recorded by way of this decision and the Order that accompanies it. The remainder of the remedies sought by the tenant were severed from the application and dismissed with leave to reapply.

Issue(s) to be Decided

What are the terms of the mutual agreement with respect to ending the tenancy?

Background and Evidence

The parties mutually agreed upon the following terms and conditions with a view to ending the tenancy as follows:

1. The parties agree to amend the 2 Month Notice to End Tenancy for Landlord's Use of Property dated October 25, 2018 to reflect an effective date of February 28, 2019.
2. The tenant withdraws her request to dispute the 2 Month Notice described above and the tenancy shall end no later than February 28, 2019.
3. Since the tenancy is ending pursuant to a 2 Month Notice, the tenant remains entitled to end the tenancy earlier than February 28, 2019 by giving the landlord at least 10 days of written notice; the tenant is entitled to the compensation provisions of the Act that apply to tenants who receive a 2 Month Notice; and, the landlord is obligated to use the rental unit for the purpose stated on the 2 Month notice after the tenancy ends.
4. For the remainder of the tenancy the tenant's son (referred to by initials SB) is at liberty to come and go to/from the rental unit but must not approach the landlord or landlord's family members or landlord's agents on the residential property or at the landlord's residence.
5. The parties acknowledge that her tenant and/or her son SB have possessions stored in the landlord's basement area (other than the rental unit) at the residential property and these possessions shall be removed from the basement in the following manner:
 - a. With a police officer present to keep the peace, the landlord and the landlord's eldest son (referred to initials AT) shall provide the tenant and SB access to the basement storage area in order to permit the tenant and SB to retrieve their personal possessions from the basement.
 - b. Should there be any dispute as to ownership of a particular item being stored in the basement, the tenant and SB shall not take the item from the basement. Rather, in such a circumstance the tenant or SB may take photographs of the item and pursue the landlord for return of the subject item by way of another dispute resolution proceeding.

Analysis

Pursuant to section 63 of the Act, I have the authority to assist parties in reaching a settlement agreement during the hearing and to record the agreement in the form of a decision or order.

I have accepted and recorded the mutual agreement reached by the parties during this hearing and I make the term(s) an Order to be binding upon both parties.

In recognition of the mutual agreement, I provide the landlord with an Order of Possession effective at 1:00 p.m. on February 29, 2019.

Conclusion

The parties reached a mutual agreement with respect to ending the tenancy that I have recorded by way of this decision. The terms in the mutual agreement are an order of mine to be binding upon both parties. In recognition of the mutual agreement, I provide the landlord with an Order of possession effective on February 29, 2019.

The remainder of the remedies sought by the tenant have been 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: December 18, 2018

Residential Tenancy Branch