



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPUM-DR, FFL

Introduction

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

- an Order of Possession for Unpaid Rent, pursuant to sections 46 and 55 of the *Act*;
- a Monetary Order for unpaid rent pursuant to section 67 of the *Act*; and
- recovery of the filing fee for this application from the tenant pursuant to section 72 of the *Act*.

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 was assisted by her son, K.J.

Although there was disputed testimony regarding the service of the Notice of Dispute Resolution Proceeding package in this matter, the tenant acknowledged that she contacted the Residential Tenancy Branch at the end of November 2018, was informed about this hearing and was provided with the teleconference access codes to attend the hearing. As such, I find that the tenant was deemed sufficiently served with the notice of this hearing as of November 30, 2018, pursuant to my authority under section 71(2)(c) of the *Act*.

Due to the conflicts between the parties, the tenant explained that she was interested in ending the tenancy, but needed time to find new accommodations. As such, the parties entered into discussions to settle their dispute.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a monetary order for unpaid rent?

Is the landlord entitled to recover the filing fee for this application from the tenant?

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 the issue currently under dispute at this time:

1. The tenant agreed to return vacant possession of the rental unit to the landlord by no later than 1:00 p.m. on January 31, 2019. The landlord is provided with an Order of Possession for this date and time, enforceable only in the event that the tenant fails to vacate the rental unit per the terms of this settlement.
2. The tenant agreed to make payment to the landlord of \$3,000.00 in satisfaction of all owed rental arrears and rent payable until the end of January 31, 2019. The landlord is provided with a Monetary Order for this amount dated February 28, 2019, enforceable only in the event that the tenant fails to pay the \$3,000.00 per the terms of this settlement.
3. Both parties agreed that the terms of this settlement as outlined above constitute a final and binding resolution of the landlord's application for dispute resolution filed on November 5, 2018, and the landlord's 10 Day Notice to End Tenancy dated October 9, 2018. As such, the landlord's application is dismissed in its entirety, and the landlord's 10 Day Notice is cancelled and is of no force or effect.
4. The parties agreed to the terms of this settlement free of any duress or coercion.

The parties are still bound by all of the rights, responsibilities, terms, conditions and any statutory compensation provisions of the tenancy agreement, the *Act*, and the associated regulations.

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:

- 1) 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.

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.

- 2) I issue to the landlord the attached Monetary Order in the amount of \$3,000.00 to be served on the tenant by the landlord **ONLY** if the tenant fails to pay the landlord per the terms of the settlement.

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

The landlord's application for dispute resolution dated November 5, 2018 is dismissed in its entirety.

The landlord's 10 Day Notice to End Tenancy dated October 9, 2018 is cancelled and of no force or effect.

The tenancy ends by way of this settlement.

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 20, 2018

Residential Tenancy Branch