



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PETE CECCONI LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, MT

Introduction

On December 14, 2018, the Tenant applied for a Dispute Resolution proceeding seeking to cancel a One Month Notice to End Tenancy for Cause (the “Notice”) pursuant to Section 47 of the *Residential Tenancy Act* (the “Act”) and seeking more time to cancel the Notice pursuant to Section 66 of the *Act*.

K.O. attended the hearing as an advocate for the Tenant. J.C. and R.C. both attended the hearing as agents for the Landlord. All in attendance provided a solemn affirmation.

The Tenant advised that she served the Landlord with the Notice of Hearing package and evidence by hand on December 22, 2018 and served this package late, pursuant to Rule 3.1 of the Rules of Procedure, as the Landlord was out of town and she wanted to serve personally. The Landlord confirmed that they received this package. Based on this undisputed testimony, in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Landlord has been served with the Notice of Hearing and evidence.

The Landlord stated that they did not submit any evidence to this file.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

I note that Section 55 of the *Act* requires that when a tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a landlord, I must consider if the landlord is entitled to an order of possession if the Application is

dismissed and the landlord has issued a notice to end tenancy that is compliant with the *Act*.

Issue(s) to be Decided

- Is the Tenant entitled to more time to have the Notice cancelled?
- Is the Tenant entitled to have the Notice cancelled?
- If the Tenant is unsuccessful in cancelling the Notice, is the Landlord entitled to an Order of Possession?

Background and Evidence

All parties agreed that the tenancy started on May 1, 2015 and that rent is currently \$870.00 per month, due on the first day of each month. A security deposit of \$425.00 was also paid.

All parties agreed that the Notice was served to the Tenant by being placed under the door on November 22, 2018 and the Tenant confirmed that she received the Notice on November 25, 2018. The reasons the Landlord served the Notice are because the "Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord and seriously jeopardized the health or safety or lawful right of another occupant or the landlord." The Landlord wrote in the effective vacancy date of the Notice as December 31, 2018.

Settlement Agreement

The possibility of a settlement was raised, pursuant to Section 63(1) of the *Act*, which allows an arbitrator to assist the parties to settle the dispute. I explained to the parties that settlement discussions are voluntary, that if they chose not to discuss settlement I would make a final and binding decision on the matter, and that if they chose to discuss settlement and did not come to an agreement, that I would make a final and binding decision on the matter.

I advised the parties that if they did come to an agreement, I would write out this agreement in my written decision and make any necessary orders. I also explained that

the written decision would become a final and legally binding agreement. The parties did not have questions about discussing a settlement when asked.

The parties engaged in a discussion on what would be an amenable settlement for both parties. The Landlord and the Tenant agreed as follows:

1. The Landlord agreed to withdraw the One Month Notice to End Tenancy for Cause.
2. The Tenant and Landlord agreed that the Tenant will have possession of the rental unit, but must vacate the rental unit by **March 31, 2019 at 1:00 PM**.
3. The Tenant must pay February and March 2019 rent in full on the day it is due, pursuant to the existing tenancy agreement.
4. The Tenant must refrain from engaging in inappropriate, disturbing, or hostile interactions with the tenants within the apartment complex.

This agreement is fully binding on the parties and is in full and final satisfaction of this dispute.

If condition two is not satisfactorily complied with, the Landlord is granted an Order of Possession that is effective at **1:00 PM on March 31, 2019 after service of this Order** on the Tenant.

However, if condition four is not satisfactorily complied with, the Landlord is granted an Order of Possession that is effective **2 days after service of this Order** on the Tenant.

This settlement agreement was reached in accordance with Section 63 of the *Act*. The parties confirmed at the end of the hearing that this agreement was made on a voluntary basis and that the parties understood the binding nature of this full and final settlement of these matters.

Conclusion

I have recorded the terms of settlement in this decision and in recognition of the settlement agreement, based on the above, I hereby order that the One Month Notice to End Tenancy for Cause of November 22, 2018 to be cancelled and of no force or effect.

In addition, in support of the settlement described above and with agreement of both parties, I grant the Landlord a conditional Order of Possession, to serve and enforce

upon the Tenant if necessary, effective at **1:00 PM on March 31, 2019 after service of this Order**. Should the Tenant be in breach of condition four of this decision, the Order of Possession will become effective **2 days after service of this Order** on the Tenant.

This Order must be served on the Tenant. If the Tenant fails to comply with this Order, the Landlord may file the Order with the Supreme Court of British Columbia and be 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: January 28, 2019

Residential Tenancy Branch