



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

CNL ERP FFT

Introduction

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

- cancellation of the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property (the "Notice") pursuant to section 49;
- an order for the landlord to make emergency repairs to the rental unit pursuant to section 33; and
- authorization to recover filing fee from the landlord pursuant to section 72.

As both parties were in attendance service of documents was confirmed. The tenant confirmed receipt of the landlord's Notice; the landlord confirmed receipt of the tenants' application for dispute resolution and evidence. Based on the testimonies of the parties, I find that each party was served with the respective materials in accordance with sections 88 and 89 of the *Act*.

Settlement

In order to assist the parties in making an informed decision regarding their obligations when ending a tenancy for landlord's use, I directed the parties to sections 51(1) and 51(1.1) of the *Act* which state:

Tenant's compensation: section 49 notice

51(1) A tenant who receives a notice to end a tenancy under section 49 [*landlord's use of property*] is entitled to receive from the landlord on or before the effective date of the landlord's notice an amount that is the equivalent of one month's rent payable under the tenancy agreement.

51(1.1) A tenant referred to in subsection (1) may withhold the amount authorized from the last month's rent and, for the purposes of section 50 (2), that amount is deemed to have been paid to the landlord.

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 all issues currently under dispute at this time:

1. This tenancy will end at 1:00 p.m. on March 1, 2019, by which time the tenants and any other occupant will have vacated the rental unit.
2. In the spirit of complying with section 51 of the *Act*, the tenants may withhold rent for the month of February, 2019.
3. Both parties agree that this tenancy ends by way of this agreement and the 2 Month Notice to End Tenancy for Landlord's use is cancelled and of no further force or effect.
4. The rights and obligations of the parties under the *Act* continue until the tenancy ends in accordance with this agreement.
5. This settlement comprises the full and final settlement of the tenants' application.

Conclusion

To give effect to the settlement reached between the parties and as discussed at the hearing, I issue the attached Order of Possession. The parties agreed that the tenants are to vacate by 1:00 P.M. on March 1, 2019, and the landlord is to serve this Order of Possession immediately and enforce it as early as 1:01 PM on March 1, 2019, should the landlord choose to do so.

Should the tenants fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: February 1, 2019

Residential Tenancy Branch