



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MNDCL, FFL

Introduction

On January 2, 2019, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) requesting an Order of Possession for Cause for the rental unit, a Monetary Order for damages, and to recover the cost of the filing fee. The matter was set for a participatory hearing via conference call.

The Landlord and Tenant attended the hearing and provided affirmed testimony. They were provided the opportunity to present their relevant oral, written and documentary evidence and to make submissions at the hearing.

Preliminary Matters

The Landlord testified that the Tenants still had possession of the rental unit and that she still wished to pursue an Order of Possession for the rental unit. I find that that the Landlord’s monetary request was not related to the main issue of whether the tenancy should continue, therefore, I severed the monetary claim with leave to reapply, pursuant to the *Rules of Procedure 2.3 - Related Issues*.

While determining if the various evidence packages were exchanged between parties, it became evident to me that the parties had many conflicting viewpoints regarding service locations and the status of the tenancy. Before making any findings on the exchange of evidence, the parties entered into settlement discussions.

Section 63 of the Act allows an Arbitrator to 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 and include an Order. Accordingly, I assisted the parties to resolve this dispute by helping them negotiate terms for a Settlement Agreement with the input from both parties.

Settlement Agreement

The Landlord and Tenant confirmed during the hearing that this agreement was made voluntarily and that it was made in full satisfaction of the Landlord's Application, specifically regarding the request for an Order of Possession.

1. The Tenant agreed that they have not occupied the rental unit since December 21, 2018.
2. The Tenant agreed that the tenancy is over as a result of the Notice to End Tenancy, dated November 5, 2018.
3. Both parties agreed that the Landlord has rightful possession of the rental unit as of this date, February 8, 2019.
4. This Application is now closed.

This agreement was summarized for the parties and all parties in attendance at the hearing indicated that they agreed to resolve this dispute under these terms. The Landlord and the Tenant both acknowledged that they understood they were not required to enter into this agreement and that they understood the agreement was final and binding.

As the Landlord's issues were addressed by settlement, I make no award for the recovery of the filing fee.

As there may be unresolved issues in relation to this tenancy, I recommend to all parties that they work together to resolve their conflict in a respectful manner and when required, to communicate in writing to ensure clear understanding and as a means to keep track of their interactions.

Note to the parties: I, the Arbitrator, was disconnected from the hearing at 11:58 a.m. while we were concluding the hearing and I was about to speak to the parties about delivery of this Decision – Settlement Agreement. I called back into the conference at 11:59 a.m. to find the last of the parties disconnecting. I intended to share that I had email addresses for both parties and would provide copies of this Decision as soon as possible.

Conclusion

The Landlord made a monetary claim for damages as part of this Application. Pursuant to the *Rules of Procedure 2.3 - Related Issues*, I dismiss this part of the Landlord's claim with leave to reapply.

The above Settlement Agreement is made in full satisfaction of the Landlord's Application regarding her request for an Order of Possession.

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 08, 2019

Residential Tenancy Branch