



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPRM-DR, FFL

Introduction

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

- an order of possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

Both parties attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. This hearing lasted approximately 15 minutes.

Preliminary Issue – Previous Hearings and Service of Documents

This hearing was originally scheduled as a direct request proceeding, which is a non-participatory hearing ("direct request hearing"). A decision, dated January 10, 2019 ("direct request decision"), was issued by an Adjudicator for the direct request proceeding. The direct request decision was based on the landlord's paper application only, with no submissions made by the tenant. The interim decision adjourned the direct request proceeding to this participatory hearing.

The landlord was required to serve the tenant with a copy of the interim decision, the notice of reconvened hearing and all other required documents, within three days of receiving it, as outlined in the interim decision itself. The tenant stated that he did not receive the above documents from the landlord but he found out about the hearing from the Residential Tenancy Branch when he called to find out information. However, both parties agreed to proceed with the hearing and settle this application, so I enforced the settlement below based on the consent of both parties.

Settlement Terms

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 and orders. 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. Both parties agreed that this tenancy will end by 1:00 p.m. on February 24, 2019, by which time the tenant and any other occupants will have vacated the rental unit;
2. The landlord agreed that her 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated December 20, 2018 ('10 Day Notice'), was cancelled and of no force or effect;
3. The tenant agreed to pay the landlord \$1,620.00 for unpaid rent for the period from November 1, 2018 to February 28, 2019 by money order in the landlord's legal name in this application, to be delivered in person when the parties meet at 6:00 p.m. on February 23, 2019;
4. The landlord agreed to bear the cost of the \$100.00 filing fee paid for this application;
5. The landlord agreed that this settlement agreement constitutes a final and binding resolution of her application at this hearing.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties. Both parties affirmed at the hearing that they understood and agreed to the above terms, free of any duress or coercion. Both parties affirmed that they understood and agreed that the above terms are legal, final, binding and enforceable, which settle all aspects of this dispute.

Conclusion

The landlord's 10 Day Notice, dated December 20, 2018, is cancelled and of no force or effect.

The landlord must bear the cost of the \$100.00 filing fee paid for this application. To give effect to the settlement reached between the parties and as advised to both parties during the hearing, I issue the attached Order of Possession to be used by the

landlord **only** if the tenant and any other occupants fail to vacate the rental premises by 1:00 p.m. on February 24, 2019. The tenant must be served with this Order in the event that the tenant and any other occupants fail to vacate the rental premises by 1:00 p.m. on February 24, 2019. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

In order to implement the above settlement reached between the parties and advised to both parties during the hearing, I issue a monetary Order in the landlord's favour in the amount of \$1,620.00. I deliver this Order to the landlord in support of the above agreement for use only in the event that the tenant does not abide by condition #3 of the above monetary agreement. The tenant must be served with a copy of this Order as soon as possible after a failure to comply with condition #3 of the above monetary agreement. 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.

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 21, 2019

Residential Tenancy Branch