



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET FFL

Introduction

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

- an Early Termination of Tenancy and Order for Possession due to the tenant posing an immediate and severe risk to the rental property pursuant to section 67 of the *Act*; and
- recovery of the filing fee 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. As both parties were present, service of documents was confirmed. The tenant confirmed receipt of the landlord's Notice of Dispute Resolution Proceeding package and evidence (consisting of approximately 20 pages contained in the package) on April 25 or 26, 2019. The tenant testified that the notice was served to him by posting on his door and not through personal service. As such, although I find that the landlord failed to serve the tenant with the notice of the hearing in accordance with section 89 of the *Act*, I find that the tenant was sufficiently served with the notice of this hearing in accordance with section 71(2)(c) of the *Act*. The landlord served the tenant with evidence late, less than 14 days prior to the hearing, and the landlord failed to serve the tenant with audio recording evidence. I advised the parties that I would not consider the landlord's documentary evidence served late, nor would I consider the evidence not shared with the tenant, however, the landlord was at liberty to provide verbal testimony pertaining to the evidence.

The landlord acknowledged receipt of approximately 11 pages of the tenant's documentary evidence.

The parties confirmed that a prior hearing had been held resulting in a decision dated January 3, 2019, and provided the file number for that decision which I have recorded on the cover sheet of this Decision. I advised the parties that evidence considered for the prior hearing would not be re-considered at the current hearing.

After presentation of submissions by both parties, the parties entered into negotiations and came to a settlement of their dispute.

Issue(s) to be Decided

Is the landlord entitled to an early end to this tenancy and an Order of Possession?
Is the landlord entitled to recover the cost of 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 provide the landlord with vacant possession of the rental unit by no later than 1:00 p.m. on August 1, 2019.
2. The landlord agreed to allow the tenant to withhold his last month's rent, that being rent for the month of July 2019.
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 April 25, 2019. As such, the landlord's application is dismissed in its entirety without leave to reapply.
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 to the landlord the attached Order of Possession to be served on the tenant should the tenant fail to abide by the terms of this settlement agreement.

Should the tenant or anyone occupying 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.

The landlord's application for dispute resolution dated April 25, 2019 is dismissed in its entirety without leave to reapply.

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: May 13, 2019

Residential Tenancy Branch