



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR MNRL-S FFL

Introduction

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

- an Order of Possession for Unpaid Rent, pursuant to sections 46 and 55 of the *Act*;
- a Monetary Order for unpaid rent and authorization to retain the security deposit in partial satisfaction of this monetary claim, 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. Landlord's agent R.P. spoke on behalf of the landlord N.P., and tenant J.T. attended and confirmed that he spoke on behalf of both the tenants.

As both parties were present, service of documents was confirmed. Tenant J.T. confirmed that both tenants individually received the landlord's Notice of Dispute Resolution Proceeding package and evidence. The tenants did not submit any evidence in this matter. Based on the undisputed testimonies of the parties, I find that the tenants were served with the notice of this hearing in accordance with section 89 of the *Act*.

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 tenancy will end on May 31, 2019 at 1:00 p.m. at which time the tenants and any other occupants will provide vacant possession of the rental unit to the landlord.
2. The landlord will retain the security deposit of \$650.00 in partial satisfaction of rental arrears owed by the tenants. Therefore, the landlord is entitled to a reduced monetary order of \$4,650.00 for rent owed and the recovery of the filing fee should the tenants fail to pay the rental arrears owed by May 31, 2019 at 1:00 p.m.
3. By way of this settlement, both parties agreed that: the landlord's 10 Day Notice to End Tenancy dated February 8, 2019 is cancelled and of no further force or effect; and the landlord's application for dispute resolution dated March 8, 2019 is dismissed in its entirety.
4. Both parties agreed to the terms of this settlement as outlined above as constituting a final and binding resolution of the landlord's application for dispute resolution, 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 following Orders:

- 1) Order of Possession dated May 31, 2019 to be served on the tenants ONLY if the tenants fail to abide by the terms set out in this settlement agreement.

Should the landlord be required to serve this Order on the tenants, and should the tenants 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.

- 2) Monetary Order for \$4,650.00 dated May 31, 2019 to be served on the tenants ONLY if the tenants fail to abide by the terms set out in this settlement agreement.

Should the tenants 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. If the tenants only make a partial payment and not the total amount, this partial payment must be accounted for if the landlord is enforcing the Monetary Order.

The landlord's 10 Day Notice to End Tenancy dated February 8, 2019 is cancelled and of no force or effect.

The landlord's application for dispute resolution dated March 8, 2019 is dismissed in its entirety.

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 07, 2019

Residential Tenancy Branch