



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPC, MNDL-S, MNRL-S, MNDCL-S, FFL, CNC, RR, RP, PSF, OLC, MT

Introduction

This hearing was convened in response to cross applications.

The Landlord filed an Application for Dispute Resolution in which the Landlord applied for an Order of Possession, a monetary Order for money owed or compensation for damage or loss, for a monetary Order for unpaid rent, for a monetary Order for damage to the rental unit; to keep all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution.

The Landlord stated that on August 02, 2019 the Landlord's Dispute Resolution Package was sent to the Tenant, via registered mail. The Tenant acknowledged receipt of these documents.

The Tenant filed an Application for Dispute Resolution in which the Tenant applied to cancel a Notice to End Tenancy for Cause, for more time to apply to cancel that Notice to End Tenancy, for an Order requiring the Landlord to comply with the Residential Tenancy Act (Act) and the tenancy agreement, for an Order requiring the Landlord to provide services and make repairs; and for a rent reduction.

The Respondent Tenant stated that sometime in July of 2019 the Tenant's Dispute Resolution Package was sent to the Landlord, via courier. The Landlord acknowledged receipt of these documents.

On July 19, 2019 the Tenant submitted evidence to the Residential Tenancy Branch. The Respondent Tenant stated that this evidence was served to the Landlord with the

Tenant's Application for Dispute Resolution. The Landlord stated that this evidence was not received. The parties were advised that I could not accept this evidence, as the Landlord did not acknowledge receiving it. The parties were advised that the hearing would proceed; that the Tenant could testify about any of her documentary evidence; and that the hearing would be adjourned if it became apparent that it was necessary for me to view her documentary evidence.

On August 02, 2019 the Landlord submitted evidence to the Residential Tenancy Branch. The Landlord stated that this evidence was served to the Tenant with the Landlord's Application for Dispute Resolution. The Respondent Tenant stated that this evidence was not received. The parties were advised that I could not accept this evidence, as the Tenant did not acknowledge receiving it. The parties were advised that the hearing would proceed; that the Landlord could testify about any of his documentary evidence; and that the hearing would be adjourned if it became apparent that it was necessary for me to view his documentary evidence.

On September 16, 2019 the Tenant submitted evidence to the Residential Tenancy Branch. The Respondent Tenant stated that this evidence was personally served to the Landlord's wife on September 13, 2019. The Landlord acknowledged receipt of this evidence and it was accepted as evidence for these proceedings.

On September 13, 2019 the Landlord submitted evidence to the Residential Tenancy Branch. The Landlord stated that this evidence was placed in the Tenant's mail box on September 13, 2019 or September 14, 2019. The Respondent Tenant stated that this evidence was not received. The parties were advised that I could not accept this evidence, as the Tenant did not acknowledge receiving it. The parties were advised that the hearing would proceed; that the Landlord could testify about any of his documentary evidence; and that the hearing would be adjourned if it became apparent that it was necessary for me to view his documentary evidence.

As the parties were able to reach a settlement agreement regarding this matter, it was not necessary for me to adjourn the hearing for the purposes of re-serving evidence.

The parties were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. Each party affirmed that they would provide the truth, the whole truth, and nothing but the truth at these proceedings.

Preliminary Matter

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure authorizes me to dismiss unrelated disputes contained in a single application. In these circumstances the parties have identified several issues in dispute on the Applications for Dispute Resolution, which are not sufficiently related to be determined during these proceedings.

The parties agree that the most urgent issue in dispute is possession of the rental unit and I will, therefore, only consider issues related to possession of the rental unit, which includes:

the Landlord's application for an Order of Possession;
the Tenant's application for more time to apply to cancel a Notice to End Tenancy; and
the Tenant's application to set aside a One Notice to End Tenancy for Cause.

I will also consider the applications to recover the fee for filing an Application for Dispute Resolution.

The balance of the issues in dispute is dismissed, with leave to re-apply.

Issue(s) to be Decided

Should the Tenant be granted more time to apply to cancel a One Month Notice to End Tenancy for Cause?

If so, should that Notice to End Tenancy be set aside or should the Landlord be granted an Order of Possession?

Background and Evidence

After much discussion about the Notice to End Tenancy for Cause that was served on July 07, 2019 and a dispute that occurred between the Tenants and the Property Manager on July 05, 2019, the parties mutually agreed to resolve all issues outlined in the section titled "Issue(s) to be Decided" under the following terms:

- The tenancy will end, by mutual agreement, on December 31, 2019; and
- The Tenant will not have to pay any rent for December of 2019.

This settlement agreement was summarized for the parties on at least three occasions. The Landlord and the Respondent Tenant both clearly indicated that they agreed to resolve the issues in dispute under these terms.

The Landlord and the Respondent 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.

Analysis

I find that the parties have mutually agreed to settle the issues in dispute at these proceedings in accordance with the aforementioned settlement agreement.

Conclusion

On the basis of the aforementioned settlement agreement, I grant the Landlord an Order of Possession, which is effective two days after at 1:00 p.m. on December 31, 2019. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

This settlement agreement is recorded on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: September 24, 2019

Residential Tenancy Branch