



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MILAN HOLDINGS INC. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR RP OLC FFT

Introduction

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

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (10 Day Notice) pursuant to section 46 of the *Act*;
- an Order for the landlord to make repairs to the rental unit or property, pursuant to section 32 of the *Act*;
- an Order for the landlord to comply with the *Act*, regulation, and/or the tenancy agreement pursuant to section 62 of the *Act*; and
- recovery of the filing fee for this application 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. Tenant N.P. attended and confirmed he was authorized to act on behalf of both name tenants to this matter. Landlord's agent L.J., an agent of the property management company acting as an agent of the corporate landlord, attended on behalf of the landlord.

As both parties were present, service of documents was confirmed. The landlord's agent confirmed that the landlord was served with the tenant's Notice of Dispute Resolution Proceeding package and evidence. The landlord's agent confirmed that the landlord did not submit any evidence in this matter. Based on the undisputed testimonies of the parties, I find that the landlord was served in accordance with sections 88 and 89 of the *Act*.

Preliminary Issue – Unrelated Claims

The tenants' application included unrelated claims for repairs to be made to the rental unit and orders for the landlord to comply with the *Act* and tenancy agreement, in addition to the tenants' claim to dispute the landlord's 10 Day Notice.

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure states that claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

Therefore, the tenants' claims unrelated to the primary application to dispute the 10 Day Notice are dismissed, and I grant the tenants liberty to reapply for these claims subject to any applicable limits set out in the *Act*.

Issue(s) to be Decided

Should the landlord's 10 Day Notice be cancelled? If not, is the landlord entitled to an Order of Possession on the basis of the 10 Day Notice?

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. Both parties agreed that this tenancy will end at 1:00 p.m. on October 31, 2019, by which time the tenants and any other occupants will return possession of the rental unit to the landlord.
2. Both parties agreed that the terms of this settlement as outlined above constitute a final and binding resolution of the tenants' application for dispute resolution and the landlord's 10 Day Notice dated August 6, 2019. As such, the tenants' application is dismissed, and the landlord's notice to end tenancy is cancelled and of no force or effect.

3. The parties agreed to the terms of this settlement voluntarily.

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

The tenants' application to dispute the 10 Day Notice is dismissed.

I grant an Order of Possession to the landlord effective October 31, 2019 at 1:00 p.m. The landlord must serve this Order on the tenant as soon as possible. Should the tenants or anyone on 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.

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: October 04, 2019

Residential Tenancy Branch