



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC CNR AAT LAT LRE MNDCT MNRT OLC PSF RP RR

Introduction

This hearing dealt with an application from the tenant pertaining to multiple claims pursuant to the *Residential Tenancy Act* (the *Act*).

The tenant's application included unrelated claims to the tenant's application to dispute the landlord's notices to end tenancy for unpaid rent and for cause.

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure requires that claims made in the application must be related to each and allows arbitrators to dismiss unrelated claims with or without leave to reapply.

As I found that the tenant's primary application pertained to disputing two notices to end tenancy, and as the tenant's additional claims had different statutory outcomes and were not related to whether or not the tenancy continued, I dismissed with leave to reapply all of the tenant's claims except for the tenant's claims to dispute the landlord's 10 Day Notice and One Month Notice.

Procedural Matters

I explained to the parties that section 55 of the *Act* requires that when a tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a landlord I must consider if the landlord is entitled to an order of possession if the tenant's Application is dismissed and the landlord has issued a notice to end tenancy that is compliant with the *Act*.

Further to this, the parties were advised that the standard of proof in a dispute resolution hearing is on a balance of probabilities. Usually the onus to prove the case is on the person making the claim. However, in situations such as in the current matter, where a tenant has applied to cancel a landlord's Notice to End Tenancy, the onus to prove the reasons for ending the tenancy transfers to the landlord as they issued the Notice and are seeking to end the tenancy.

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?

Should the landlord's One Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession on the basis of the One Month 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 voluntarily agreed to the following final and binding settlement of the issues currently under dispute at this time:

1. This tenancy will end at 1:00 p.m. on February 29, 2020, by which time the tenant and any other occupants will return vacant possession of the rental unit to the landlord.
2. The tenant will pay only \$500.00 monthly rent to the landlord for the months of January and February 2020.

The terms of this settlement as outlined above constitute a final and binding resolution of the tenant's application to dispute two notices to end tenancy and the landlord's notices to end tenancy. As such, the tenant's application is dismissed, and the landlord's notices to end tenancy are cancelled and of no force or effect.

Both parties understood that they both have responsibilities for addressing the security deposit in accordance with the *Act* at the end of the tenancy and as the tenancy will continue for the next two months, both parties are still bound by all of the rights, responsibilities, terms, and conditions of the tenancy agreement, the *Act*, and the associated regulations until the end of the tenancy.

Conclusion

To give effect to the settlement reached between the parties and as advised to both parties during the hearing, I issue an Order of Possession for the landlord effective February 29, 2020 to be served on the tenant if the tenant fails to abide by the terms set out in this settlement agreement. Should the landlord be required to serve this Order on the tenant and 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 tenant's application to dispute the landlord's notices to end tenancy is dismissed, and the landlord's notices to end tenancy are cancelled and of no force or effect.

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: December 30, 2019

Residential Tenancy Branch