



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CMHA KOOTENAYS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

FFL OPC

Introduction

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

- Authorization to recover the filing fees from the tenant pursuant to section 72; and
- An Order of Possession for Cause pursuant to sections 47 and 55.

The landlord attended the hearing, represented by property manager, DS ("landlord"). The tenant attended the hearing and was accompanied by support workers, BS and MB. As both parties were in attendance, service of documents was confirmed. The tenant confirmed receipt of the landlord's Application for Dispute Resolution and the parties acknowledged the exchange of evidence and stated there were no concerns with timely service of documents. Both parties were prepared to deal with the matter of the application.

Preliminary Issue

At the commencement of the hearing, the tenant's support worker advised that on December 20, 2019, the tenant filed an application to dispute the landlord's One Month Notice To End Tenancy for Cause issued on November 5, 2019. The file number for the tenant's application is noted on the cover page of this decision. I searched the Residential Tenancy Branch case management system and determined that the tenant's Application for Dispute Resolution had been set for hearing on February 27, 2020. I did not hear the merits of the tenant's application during this hearing.

Settlement Reached

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. I advised the parties on several occasions that there is no obligation to resolve the dispute through settlement and that if either party did not wish to resolve this matter through settlement, I was prepared to make a decision based on the evidence before me. 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 all issues currently under dispute at this time:

1. The tenancy will end at 1:00 p.m. on January 31, 2020 by which time the tenant and any other occupants will have vacated the rental unit.
2. The rights and obligations of the parties under the *Act* continue until the tenancy ends.

Both parties testified at the hearing that they understood and agreed to the above terms, free of any duress or coercion. Both parties testified that they understood and agreed that the above terms are legal, final, binding and enforceable, which settle all aspects of this dispute.

Pursuant to section 72 of the *Act*, the director may order payment or repayment of a fee under section 59 (2) (c) [*starting proceedings*] by one party to a dispute resolution proceeding to another party or to the director. This order is discretionary upon the director and I decline to issue the order as I find it would be a hardship upon the tenant.

Conclusion

To give effect to the settlement reached between the parties and as discussed at the hearing, I issue the attached Order of Possession. The parties agree that the tenant is to vacate the rental unit by 1:00 p.m. on January 31, 2020 and the landlord is to serve this Order of Possession immediately and enforce it as early as 1:01 p.m. on January 31, 2020 should the landlord choose to do so.

Pursuant to section 62(4), the tenant's Application for Dispute Resolution Proceedings set for February 27, 2020 at 9:30 a.m. is cancelled as the application no longer discloses a dispute that may be determined under Part 5 of the *Act*.

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: January 22, 2020

Residential Tenancy Branch