



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL DRI FFT

Introduction

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

- cancellation of the landlord's Two Month Notice to End Tenancy for Landlord's Use (Two Month Notice) pursuant to section 49 of the *Act*;
- dispute of a rent increase pursuant to section 41 of the *Act*; and
- recovery of the filing fee for this application from the landlord 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. The landlord attended with an agent to assist him. The tenant's agent D.L. attended and confirmed that he was authorized to speak on behalf of the named tenant in this matter.

As both parties were present, service of documents was confirmed. The landlord's agent confirmed receipt of the notice of this hearing, the tenant's application for dispute resolution, and evidentiary documents served by Canada Post registered mail. The tenant's agent confirmed receipt of the landlord's evidence for this hearing. Based on the undisputed testimonies of the parties, I find that the documents for this hearing were sufficiently served in accordance with section 71 of the *Act*.

Preliminary Issue – Severing of Unrelated Claims

The tenant's application included an unrelated claim pertaining to a dispute of a rent increase, in addition to their primary claim to dispute the landlord's Two Month 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.

The tenant's agent explained that the tenant had already submitted a separate Application for Dispute Resolution for monetary compensation pertaining to the claim disputing a rent increase.

As such, I dismiss with leave to reapply the tenant's claim pertaining to a dispute of a rent increase submitted with the application before me at this hearing and I have proceeded to only address the tenant's Application to dispute the landlord's Two Month Notice in this Decision that follows.

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 issue currently under dispute at this hearing:

1. This tenancy will end by no later than 1:00 p.m. on March 1, 2020, as per the effective vacancy date provided on the landlord's Two Month Notice dated December 14, 2019.
2. In accordance with the compensation provisions of section 51 of the *Act*, the tenant will not be required to pay rent in the amount of \$1,175.00 for the month of February 2020 if that is the tenant's last month of rent.
3. The tenant retains the right to end the tenancy sooner than the effective vacancy date provided on the Two Month Notice of March 1, 2020 in accordance with section 50 of the *Act* which permits the tenant to end the tenancy early by giving the landlord at least 10 days' written notice and paying the proportion of the rent due up to the end date of the tenancy provided by the tenant in the tenant's written notice to end tenancy.
4. If the tenant exercises the right to end the tenancy early, the landlord will still be obligated to compensate the tenant the amount equivalent of one month's rent payable, which is \$1,175.00.

5. Both parties agreed that the terms of this settlement as outlined above constitute a final and binding resolution of the tenant's application for dispute resolution. As such the tenant's application to dispute the Two Month Notice is dismissed, and the landlord's Two Month Notice to End Tenancy is cancelled and of no further force or effect.

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 the following Orders to the parties:

- 1) I issue to the landlord an Order of Possession to be served on the tenant as soon as possible. The landlord may only enforce the Order if the tenant fails to vacate the rental unit **by 1:00 p.m. on March 1, 2020**. Should the tenant 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.
- 2) I issue to the tenant the attached Monetary Order dated **March 1, 2020**, to be served on the landlord by the tenant **only** if the landlord fails to make the agreed upon compensation payment to the tenant as required by the terms of this settlement agreement in the event that the tenant ends the tenancy early and is unable to withhold payment of rent for the month of February 2020. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and be enforced as an Order of that Court. If the landlord only makes a partial payment and not the total amount, this partial payment must be accounted for if the tenant is enforcing the Monetary Order.

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 03, 2020