



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Top Vision Realty
Inc and [ssed to protect privacy]

DECISION

Dispute Codes Tenant: CNR, RP, PSF, OLC, RR, MNDCT, MNRT, FFT
Landlord: OPR, MNRL-S, FFL

Introduction

This hearing was scheduled in response to the landlord and tenant applications pursuant to the *Residential Tenancy Act* (the “Act”).

The landlord applied for:

- order of possession for unpaid rent pursuant to section 46 and 55 of the *Act*.
- monetary order for rent and/or utilities for the landlord – security deposit applied to the claim pursuant to section 67 of the *Act*.
- authorization to recover the filing fee for this application pursuant to section 72 of the *Act*.

The tenant applied for;

- cancellation of the 10 Day Notice for unpaid rent or utilities pursuant to section 46(4) of the *Act*;
- order for regular repairs pursuant to sections 32 & 62 of the *Act*.
- order to provide services or facilities required by the tenancy pursuant to section 62 of the *Act*.
- order for the landlord to comply with the *Act*, regulation or the tenancy agreement pursuant to section 62(3) of the *Act*.
- order to reduce the rent for repairs, services or facilities agreed upon but not provided pursuant to section 65(1) of the *Act*.
- monetary order for damage or compensation under the *Act* for the tenant pursuant to section 67 of the *Act*.
- monetary order for the cost of emergency repairs for the tenant pursuant to section 33 of the *Act*.
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72 of the *Act*.

The landlord CFC attended with his property manager SB. The tenant NM, assisted by his mother MM attended the hearing, both parties were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Tenant NM was agitated in this hearing and was subsequently calmed down by his mother who advised that the tenant had “financial problems” The parties settled the matter and were advised on three separate occasions that this settlement was legal and binding. Both parties agreed to this settlement.

The landlord testified and confirmed receipt of the tenant’s application for Dispute Resolution proceeding and receipt of the evidentiary package which was sent by Canada Post Registered mail on March 10, 2020. Pursuant to sections 88 & 89 of the *Act*, I find the landlord was served in accordance with the *Act*.

The tenant testified and confirmed receipt of the landlord’s evidentiary package sent by Canada Post Registered mail on March 13, 2020. Pursuant to sections 88 & 89 of the *Act*, I find the landlord was served in accordance with the *Act*.

Preliminary Matters – Amending the Application

I note that in the landlord’s Application for Dispute Resolution the landlord, spelled the street name with an “h” in the word. However, all other documents including the Tenancy agreement, the tenant’s application and the Notice to End Tenancy spell the street name without the letter “h”, based on a review of all applicable documentation filed in evidence. I find it would be reasonable to amend the address to be spelled as noted in the tenancy agreement and notice to end tenancy.

Amending the Application for repairs

Rule 2.3 of The Residential Tenancy Branch Rules of Procedure allow an Arbitrator to decline to hear or dismiss issues if the Arbitrator determines the issues are unrelated. I have determined that the tenant’s application for a monetary award and repairs is unrelated to the cancelling of the 10 Day Notice. I dismiss this portion of the application. The tenant remains at liberty to submit a new application for dispute resolution in regard to these matters.

Issue(s) to be Decided

Is the tenant entitled to cancel the 10 Day Notice for unpaid rent or utilities pursuant to section 46(4) of the *Act*;

Is the tenant entitled to recover the filing fee pursuant to section 72(1) of the *Act*?

Is the landlord entitled to an order of possession for unpaid rent or utilities pursuant to Sections 46(1) and 55(2)(d) of the *Act*?

Is the landlord entitled to a monetary order for unpaid rent pursuant to section 67 of the *Act*?

Settlement

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, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

All parties agreed to the following final and binding settlement:

1. The tenant NM agrees to move out of the rental unit on May 31, 2020 by 1:00 p.m.
2. The tenant NM agrees to move out all his personal possessions immediately out of the basement and give the landlord full access to the basement to renovate and undertake repairs.
3. The landlord agrees to forfeit the rent due for the months of January, February, March, April and May 2020.
4. Should the tenant proceed with a further monetary application in the Residential Tenancy Board, the landlord reserves the right to request the rent due for the above months in his application.

Both parties gave verbal sworn affirmation at the hearing that they understood and agreed to the above terms as legal, final and binding, which settle all aspects of this dispute.

Tenant NM testified that he understood that the above agreement was being made and was binding and enforceable. The parties agreed the effective date of end of tenancy would end on Sunday May 31, 2020 at 1:00 p.m.

Conclusion

To give effect to the settlement reached between the parties and as discussed during the hearing, I issue the attached Order of Possession under section 55(2)(d) to be used by the landlord only if the tenant and any occupant fails to vacate the rental premises by 1:00 p.m. Sunday May 31.

Should the tenant fail to comply with the Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

This settlement agreement was reached in accordance with section 63 of the *Act*. The parties are bound by the terms of this agreement, as well as by the terms of their tenancy agreement and the *Act*. Should either party violate the terms of this agreement, the tenancy agreement or the *Act*, it is open to the other party to take steps under the *Act* to end the tenancy.

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: March 25, 2020

Residential Tenancy Branch