



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) that was filed by the Landlord under the *Residential Tenancy Act* (the “Act”), seeking an order ending the tenancy early because the Tenant poses an immediate and severe risk to the rental property, other occupants or the Landlord pursuant to section 56 of the *Act*, and recovery of the filing fee.

The hearing was convened by telephone conference call and was attended by the Landlord, a support person/witness for the Landlord, and the Tenant. A witness for the Tenant also attended part-way through the hearing. All parties and witnesses provided affirmed testimony. The parties were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

The Residential Tenancy Branch Rules of Procedure (the “Rules of Procedure”) state that the respondent must be served with a copy of the Application and notice of the hearing. The Landlord and their witness stated that the Notice of Dispute Resolution Proceeding package, including a copy of the Application and notice of the hearing, were personally served on the Tenant on February 14, 2020. The Tenant agreed that they were personally served but stated that it was on February 15, 2020. I find that the Tenant was personally served with the Notice of Dispute Resolution Proceeding package by February 15, 2020, at the latest, and had time to consider and respond to the Application and appear at the hearing in their defense.

At the request of the parties, copies of the decision and any orders issued in their favor will be emailed to them at the email addresses provided for them in the Application.

Preliminary Matters

In the hearing the Landlord sought to amend the Application to include a request for outstanding rent and an Order of Possession based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10 Day Notice”) as they stated that they had intended to apply for a Direct Request. I advised the Landlord that pursuant to rule 6.2 of the Rules of Procedure the hearing is limited to matters claimed on the application unless the arbitrator allows a party to amend the application. I advised the Landlord that rule 4.6 of the Rules of Procedure only allows for Applications to be amended in a hearing in circumstances that can reasonably be anticipated, such as when the amount of rent owing has increased since the time an application seeking monetary compensation for unpaid rent was made.

As the Application filled and served on the Tenant relates to a request for an order ending the tenancy early because the Tenant poses an immediate and severe risk to the rental property, other occupants or the Landlord pursuant to section 56 of the *Act*, not a 10 Day Notice, I do not find that the Tenant could reasonably have anticipated that the Landlord would seek both an order of possession and financial compensation in the hearing based on a 10 Day Notice. I therefore declined to Amend the Application.

I advised the Landlord that they could withdrawn their Application, with the Tenants consent, if they had filled the Application in error, and file a subsequent Application in relation to the 10 Day Notice; the Landlord declined. As a result, the hearing proceeded as scheduled based on the Landlord’s Application seeking an order ending the tenancy early pursuant to section 56 of the *Act*.

Settlement

The opportunity for settlement was discussed with the parties during the hearing. The parties were advised on several occasions during the hearing that there is no obligation to resolve the dispute through settlement, but that pursuant to section 63 of the *Act*, I could assist the parties to reach an agreement, which would be documented in my Decision and supporting order.

During the hearing, the parties mutually agreed to settle this matter as follows:

1. The parties agree the tenancy will end on March 20, 2020, at 12:00 P.M.
2. The Tenant agrees to provide reasonable access to the rental unit for the purpose of showing it to prospective new tenants.

3. The parties agree that if reasonable access times cannot be agreed upon, the Landlord will give 24 hours written notice and enter the rental unit, regardless of the Tenants agreement or consent, pursuant to section 29 (b) of the *Act*.

This settlement agreement was reached in accordance with section 63 of the *Act*.

Conclusion

I order the parties to comply with the terms of their mutually settled agreement described above.

In support of the settlement described above, and with the agreement of the parties, I grant the Landlord an order of possession, effective March 20, 2020, at 12:00 P.M. This Order must be served on the Tenant as soon as possible. Should the Tenant fail to comply with this Order, this order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

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