



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) that was filed by the Tenant under the *Residential Tenancy Act* (the “Act”), seeking:

- Cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10 Day Notice”)

I note that section 55 of the *Act* requires that when a tenant submits an Application 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 Application is dismissed and the landlord has issued a notice to end tenancy that is compliant with section 52 of the *Act*.

The hearing was convened by telephone conference call and was attended by the Tenant, who provided affirmed testimony. Neither the Landlord nor an agent for the Landlord attended. The Tenant was 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 Hearing. In the hearing the Landlord confirmed receipt of the Notice of Dispute Resolution Proceeding package, including a copy of the Application, notice of the hearing, and the Tenant’s documentary evidence, by registered mail on March 27, 2020.

At the request of the Tenant, a copy of the decision and any orders issued in their favor will be emailed to their support person at the email address provided in the hearing and mailed to them at the dispute address. At the request of the Landlord, a copy of the decision and any orders issued in their favor will be emailed to them at the email address provided in the hearing.

Preliminary Matters

At the outset of the hearing the Tenant's support person requested a short adjournment as they stated that the Tenant is having a panic attack and that they are currently at a Service BC location and need to leave due to social distancing requirements. The Landlord objected stating that they Tenant knew about the date and the time of the hearing and should have been prepared.

The Tenant's support person stated that the Tenant mistakenly believed that they needed to go to the Service BC location to make the call and that a private room would be available for them for this purpose. The Tenant's support person requested a brief adjournment of 15 minutes to relocate as the Service BC location was requesting that they leave due to social distancing requirements in place due to the pandemic and the current state of emergency.

Rule 7.4 of the Rules of Procedure states that at any time after the dispute resolution hearing begins, the arbitrator may adjourn the dispute resolution hearing to another time and that a party or a party's agent may request that a hearing be adjourned. Rule 7.4 also states that the arbitrator will determine whether the circumstances warrant the adjournment of the hearing.

Given the situation, the current social distancing requirements due to the pandemic and the state of emergency, and the brief nature of the adjournment request, I found the Tenant's request for a brief adjournment reasonable. The parties were requested to reconvene by telephone conference call 20 minutes later (1:54 P.M. Pacific Standard Time) at the same number and with the same codes. The parties were advised that the hearing would commence at that time, regardless of whether both parties were present.

At 11:53 P.M. all parties had rejoined the conference call and the hearing proceeded.

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.

Although the validity of the 10 Day Notice was discussed by both parties in the hearing, ultimately the parties mutually agreed to settle this matter as follows:

1. The parties agree that the tenancy will end on April 30, 2020, at 4:00 P.M. (Pacific Standard Time);
2. The Tenant agrees to vacate the rental property by 4:00 p.m. on April 30, 2020;
3. The rights and obligations of the parties under the *Act* continue until the tenancy ends in accordance with this agreement;
4. The Landlord cancels the 10 Day Notice and the Tenant withdraws their Application in full as part of this mutually agreed settlement.

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 **4:00 P.M. (Pacific Standard Time) on April 30, 2020**. The Landlord is provided with this Order in the above terms and the Tenant must be served with this Order as soon as possible. Should the Tenant fail to comply with this Order, this order may be filed in and enforced as an order of the Supreme Court of British Columbia.

Ministerial Order M089 issued March 30, 2020, pursuant to the State of Emergency declared on March 18, 2020, prohibits the enforcement of certain Residential Tenancy Branch orders made during the state of emergency. Enforcement of other Residential Tenancy Branch orders may be affected by the suspension of regular court operations of the BC Supreme Court and Provincial Court.

Despite the above information, the Tenant is encouraged to comply with their mutual agreement and vacate the rental unit on April 30, 2020, if possible and if it is safe for them to do so.

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: April 21, 2020

Residential Tenancy Branch