



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PORT ROYAL VILLAGE DEV.
INC. and [tenant name suppressed to protect privacy]

REVIEW HEARING DECISION

Dispute Codes MNDCT, FFT

Introduction

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

- a monetary order for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The landlord's three agents, landlord TH ("landlord"), "landlord ML" and "landlord EN," and the tenant attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. This hearing lasted approximately 35 minutes.

The landlord confirmed that he was the resident property manager, landlord ML confirmed he was the director, and landlord EN confirmed that she was the senior property manager for the landlord company named in this application. All three landlord agents confirmed they had permission to represent the landlord company named in this application.

Pursuant to section 64(3)(c) of the *Act*, I amend the tenant's application to replace the name of the landlord company. Both parties consented to this amendment during the hearing.

Both parties confirmed that they were ready to proceed with the hearing and had no objections.

Preliminary Issue - Previous Hearings and Service of Documents

The original participatory hearing in this matter occurred on June 12, 2020 (“original hearing”) after which a decision of the same date was issued (“original decision”) by a different Arbitrator. The original decision awarded the tenant a monetary order of \$3,100.00 for the tenant’s application (“original application” and “original monetary order”) and the landlord did not attend that hearing.

The landlord applied for a review of the original decision, alleging that the landlord was unable to attend the original hearing. A new review hearing was granted by a different Arbitrator, pursuant to a review consideration decision, dated June 22, 2020 (“review decision”). As per the review decision, the landlord was required to serve the tenant with a copy of the review decision and the new notice of review hearing.

The tenant confirmed receipt of the above review documents. Accordingly, I find that the tenant was duly served with the required review documents, as per sections 89 and 90 of the *Act*.

The landlord confirmed receipt of the tenant’s original application and evidence. In accordance with sections 89 and 90 of the *Act*, I find that the landlord was duly served with the tenant’s original application and evidence.

Settlement Terms

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 and orders. During the hearing, the parties discussed the issues between them, turned their minds to compromise and achieved a resolution of their dispute and arising out of this tenancy.

Both parties agreed to the following final and binding settlement of all issues currently under dispute at this time and arising out of this tenancy:

1. The landlord agreed to pay the tenant \$1,250.00 by August 10, 2020, by way of a cheque to be picked up by the tenant at the landlord’s office;
 - a. The tenant agreed to send an email to the landlord by August 1, 2020, inquiring as to when the above cheque will be ready and to make an appointment to pick up the cheque at the landlord’s office;

- b. During the hearing, both parties confirmed the landlord's office address and the landlord's email address in order to facilitate the above payment;
2. The tenant agreed to bear the cost of the \$100.00 filing fee paid for this application;
3. The tenant agreed that this settlement agreement constitutes a final and binding resolution of his application at this hearing and any issues arising out of this tenancy;
4. Both parties agreed that they will not initiate any future claims or applications against each other at the Residential Tenancy Branch, with respect to any issues arising out of this tenancy.

These particulars comprise the full and final settlement of all aspects of this dispute and arising out of this tenancy. Both parties affirmed at the hearing that they understood and agreed to the above terms, free of any duress or coercion. Both parties affirmed that they understood and agreed that the above terms are legal, final, binding and enforceable, which settle all aspects of this dispute and arising out of this tenancy.

Original Decision and Order

Section 82(3) of the *Act* states:

Following the review, the director may confirm, vary or set aside the original decision or order.

I set aside the original decision and original monetary order, both dated June 12, 2020. I issue a new monetary order to the tenant against the landlord for \$1,250.00.

Conclusion

The original decision and original monetary order for \$3,100.00, both dated June 12, 2020, are set aside.

I issue a new monetary Order in the tenant's favour in the amount of \$1,250.00. I deliver this Order to the tenant in support of the above agreement for use **only** in the event that the landlord fails to pay the tenant \$1,250.00 as per condition #1 of the above agreement. The landlord must be served with a copy of this Order. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

The tenant must bear the cost of the \$100.00 filing fee paid for this application.

I order both parties to comply with all of the above settlement terms.

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: July 21, 2020

Residential Tenancy Branch