



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Nacel Properties Ltd. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNC, FF

Introduction

This hearing dealt with an application by the tenant for an order to set aside a notice to end tenancy for cause. Both parties attended this hearing and were given full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The tenants represented themselves. The corporate landlord was represented by their agent.

As both parties were in attendance, I confirmed service of documents. The parties confirmed receipt of each other's evidence. I find that the parties were served with evidentiary materials in accordance with sections 88 and 89 of the *Act*.

Issue to be Decided

Does the landlord have grounds to end this tenancy?

Background and Evidence

The background facts are generally undisputed. On August 05, 2020, the landlord served the tenant with a 30-day notice to end tenancy for cause. The tenant made application to dispute the notice in a timely manner. The reasons for the notice were discussed at length. During the hearing, the parties engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Analysis

Pursuant to Section 63 of the *Residential Tenancy Act*, the Arbitrator may assist the parties settle their dispute and if the parties settle their dispute during the hearing, the settlement may be recorded in the form of a decision or an order. During this hearing, the parties reached an agreement to settle their dispute.

Specifically, it was agreed that the landlord would withdraw the notice to end tenancy and allow the tenancy to continue on the following terms:

1. The tenant agreed to sign an updated version of the addendum to the tenancy agreement. The updated term in the addendum would prohibit the tenant from smoking inside the building and on the balcony, starting immediately.
2. The tenant agreed to smoke only in the areas designated for smoking.
3. Both parties confirmed that they understood and agreed to the terms of this agreement.

The tenant would be wise to ensure that smoking is carried out in the designated areas only. I find it timely to put the tenant on notice that, if she does not comply with the terms of this agreement and another notice to end tenancy is issued, the record of these events would form part of the landlord's case should it again come before an Arbitrator for consideration.

As this dispute was resolved by mutual agreement and not based on the merits of the case, I decline the tenant's request to recover the filing fee paid for this application

The parties have reached a settled agreement, as recorded above. This 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 settled agreement, the tenancy agreement or the *Act*, it is open to the other party to take steps under the *Act* to seek remedy.

Conclusion

The notice to end tenancy is set aside and the tenancy will continue.

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: October 22, 2020

Residential Tenancy Branch