



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PCPM LTD. as agent for Strathmore Lodge
Ltd. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, OLC, OPR, FFL

Introduction

This hearing dealt with applications from both the landlord and the tenants under the *Residential Tenancy Act* (the *Act*).

On September 4, 2020, both individuals above identified in the tenants' application as tenants applied for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46; and
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;

On September 30, 2020, an adjudicator appointed pursuant to the *Residential Tenancy Act* (the *Act*) issued an Interim Decision regarding the landlord's application using the direct request process for the following:

- an Order of Possession for unpaid rent pursuant to section 55; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

In the landlord's application, they identified only the tenant as the Respondent in their application. Tenant EC (the tenant) confirmed that the other individual identified on their own application is their 13-year old daughter and not a joint tenant.

As the Adjudicator was not satisfied that all of the information required for consideration of the landlord's application by way of the ex parte hearing provided pursuant to the Residential Tenancy Branch's direct request procedure had been submitted, the Adjudicator adjourned the landlord's application to a participatory hearing by an

arbitrator. I have subsequently been delegated responsibility pursuant to the *Act* to convene the participatory hearing to consider both of these applications.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

As the tenant confirmed that they received the landlord's 10 Day Notice posted on their door on September 2, 2020, I find that the tenant was duly served with this Notice in accordance with section 88 of the *Act*. As the tenant confirmed that they received a copy of the landlord's dispute resolution hearing package sent by the landlord by registered mail on October 6, 2020, I find that the tenant was duly served with this package in accordance with section 89 of the *Act*. Since the landlord also confirmed that they received a copy of the tenant's dispute resolution hearing package in early September 2020, I find that this material was duly served to the landlord in accordance with section 89 of the *Act*. As both parties confirmed that they had received one another's written evidence, I find that the written evidence was served in accordance with section 88 of the *Act*.

Issues(s) to be Decided

Should the landlord's 10 Day Notice be cancelled? If not, is the landlord entitled to an Order of Possession? Is the landlord entitled to an Order of Possession for unpaid rent? Is the landlord entitled to recover the filing fee for this application from the tenant? Should any other orders be issued with respect to this tenancy?

Background and Evidence

The tenant and the landlord signed a fixed term Residential Tenancy Agreement (the Agreement) on December 6, 2019 for a one year fixed term tenancy that is to run from January 1, 2020 until December 31, 2020. Monthly rent is set at \$1,400.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$700.00 security deposit paid on November 13, 2019.

The landlord's 10 Day Notice was issued because the tenant had not paid their September 2020 rent by September 2, 2020. The tenant testified that they had always paid cash to the landlord and been issued a receipt. Due to a number of concerns that the parties were having with one another and because the tenant does not have cheques and the landlord company will not accept e-transfers of funds, the tenant was

unwilling to place a cash payment in the mail slot of the landlord's onsite building management office. The tenant said that they were willing to make a cash payment of the outstanding rent for September and October 2020 by the end of the business day if the landlord committed to be available until 5:00 p.m. on the day of the hearing.

The tenant also asked that they be allowed to keep the dog that they have kept on the premises since February 2020. There was disputed testimony and written evidence as to whether or not the tenant had been given permission by the landlord to keep this dog on the premises before they obtained the dog in February 2020.

Analysis

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

1. The tenant agreed to pay the landlord a sum of \$2,800.00 in cash, representing the amount of rent currently owing for this tenancy, by attending the landlord's on site building management office before 5:00 p.m. on October 23, 2020.
2. The landlord agreed to be present at their building management office until 5:00 p.m. on October 23, 2020, and agreed to accept the tenant's outstanding rental payment of \$2,800.00 and to issue a receipt for this cash payment that day.
3. The landlord agreed that their acceptance of the cash payment from the tenant will set aside the 10 Day Notice and that the 10 Day Notice of September 2, 2020 will not lead to an ending of this tenancy for unpaid rent.
4. Both parties agreed that this tenancy will continue until ended in accordance with the *Act*.
5. The landlord agreed to allow the tenant to be "grandfathered" into an agreement to allow the tenant to keep the dog that they have kept in the rental unit since February 2020, provided that the tenant sign a pet agreement and pay a pet damage deposit of \$700.00 by November 1, 2020. To this end, the landlord agreed to provide the tenant with the pet agreement when the tenant attends the landlord's office on October 23, 2020 and further agreed to prepare an amendment to the Agreement permitting the tenant to keep the dog that they currently have in the rental unit. The landlord agreed to issue a receipt for the \$700.00 pet damage deposit payment.
6. The tenant agreed to complete the pet agreement to be provided to them by the landlord on October 23, 2020, and to return the signed pet agreement along with

a cheque in the amount of \$700.00 for the pet damage deposit for this tenancy by November 1, 2020.

7. Both parties agreed that this settlement agreement constituted a final and binding resolution of their applications for dispute resolution and all issues currently in dispute arising out of this tenancy and that they did so of their own free will and without any element of force or coercion having been applied.

Conclusion

To give legal effect to the settlement outlined above, the 10 Day Notice of September 2, 2020 is set aside and is of no continuing force or effect. This tenancy continues until ended in accordance with the *Act*.

To implement the provisions of clauses 5 and 6 of the settlement agreement as outlined above, I order the landlord to provide the tenant with a pet agreement and to accept the tenant's \$700.00 pet damage deposit to be paid by the tenant by November 1, 2020. In the event that the tenant produces the \$700.00 pet damage deposit to the landlord by November 1, 2020, the tenant is allowed to keep their existing dog in the rental unit in accordance with the terms of the pet agreement that they parties sign. I also order the landlord to prepare an amendment or addendum to the existing Agreement, permitting the tenant to keep their existing dog in the rental unit during the course of this 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: October 23, 2020

Residential Tenancy Branch