



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MAL INVESTMENT INC
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR-DR-PP, OPRM-DR, FFL; CNR

Introduction

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

- an order of possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

This hearing also dealt with the tenant's application pursuant to the *Act* for:

- cancellation of the landlord's Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, dated September 13, 2020 ("10 Month Notice"), pursuant to section 46.

The landlord's agent ("landlord"), the landlord's lawyer, 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. The landlord confirmed that he was the director of the landlord company named in this application and that he had permission to speak on its behalf. He confirmed that the landlord company owns the rental unit. He stated that his lawyer had permission to represent him and the landlord company at this hearing. This hearing lasted approximately 42 minutes.

The tenant confirmed receipt of the landlord's application for dispute resolution hearing package. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was duly served with the landlord's application.

The landlord said that he did not receive the tenant's application for dispute resolution hearing package. The tenant said that she did not serve it to the landlord. However, the landlord agreed to proceed with the hearing and settle the tenant's application.

Pursuant to section 64(3)(c) of the *Act*, I amend the landlord's application to correct the legal name of the landlord company, which the landlord's lawyer confirmed during the hearing. The landlord's lawyer consented to this amendment during the hearing and the tenant raised no objection to same.

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.

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

1. Both parties agreed that this tenancy will end by 1:00 p.m. on January 31, 2021, by which time the tenant and any other occupants will have vacated the rental unit;
2. The landlord agreed that the landlord's 10 Day Notice, dated September 13, 2020, is cancelled and of no force or effect;
3. The tenant agreed to pay the landlord \$3,400.00 total, which the landlord agreed to accept towards all outstanding rent from April to September 2020 inclusive and the \$1,000.00 security deposit;
4. The tenant agreed to pay the landlord full rent of \$2,000.00 for each month on December 1, 2020 and January 1, 2021;
5. Both parties agreed that this settlement agreement constitutes a final and binding resolution of their applications at this hearing.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties. 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.

The filing fee is a discretionary award issued by an Arbitrator usually after a party is successful on the merits of their application after a full hearing and a decision is made. As both parties voluntarily settled this application and I was not required to make a decision, I decline to award the \$100.00 filing fee to the landlord.

Conclusion

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

To give effect to the settlement reached between the parties, I issue the attached Order of Possession to be used by the landlord **only** if the tenant and any other occupants fail to vacate the rental premises by 1:00 p.m. on January 31, 2021. The tenant must be served with this Order. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

In order to implement the above settlement reached between the parties, I issue a monetary Order in the landlord's favour in the amount of \$3,400.00, the current rent and security deposit owing for this tenancy. I deliver this Order to the landlord in support of the above agreement for use only in the event that the tenant does not abide by condition #3 of the above agreement. The tenant must be served with a copy of this Order. Should the tenant 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 landlord's 10 Day Notice, dated September 13, 2020, is cancelled and of no force or effect.

The landlord's application to recover the \$100.00 filing fee is dismissed without leave to reapply.

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: November 06, 2020

Residential Tenancy Branch