



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1239459 BC LTD and [tenant name
suppressed to protect privacy]

DECISION

Dispute Codes CNR, FFT

Introduction

On December 14, 2020, the Tenants made an Application for Dispute Resolution seeking to cancel a 10 Day Notice to End Tenancy for Unpaid Rent (the “Notice”) pursuant to Section 46 of the *Residential Tenancy Act* (the “Act”) and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

Tenant S.M. attended the hearing, and A.H. attended the hearing as an agent for the Landlord. V.C., the owner of the company, attended the hearing to confirm that A.H. was authorized to represent him as his agent. He then exited the teleconference. All parties in attendance provided a solemn affirmation.

The Tenant advised that the other Tenant served the Notice of Hearing and evidence package to the Landlord; however, she was not sure when this was done or how it was served. A.H. confirmed that the Landlord received this package on December 30, 2020 and that it was likely sent by regular mail. He stated that he did not have any position with respect to the manner with which this package may have been served. As such, I am satisfied that the Landlord received the Notice of Hearing and evidence package.

A.H. advised that the Landlord did not submit any evidence for consideration on this file.

All parties acknowledged the evidence submitted and were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

I note that Section 55 of the *Act* requires that when a Tenant submits an Application for Dispute Resolution 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 complies with the *Act*.

Issue(s) to be Decided

- Are the Tenants entitled to have the Notice cancelled?
- If the Tenants are unsuccessful in cancelling the Notice, is the Landlord entitled to an Order of Possession?
- Are the Tenants entitled to recover the filing fee?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy started on April 1, 2020, that rent was established at an amount of \$2,500.00 per month, and that it was due on the first day of each month. A security deposit of \$1,250.00 was also paid. A signed copy of the tenancy agreement was submitted as documentary evidence.

They also agreed that the Notice was served to the Tenants by being posted to the Tenants' door on December 13, 2020. The Notice indicated that \$1,350.00 was owing for rent on December 1, 2020. The effective end date of the tenancy was noted as December 21, 2020.

With respect to the rent owing, the parties confirmed that rent was in arrears for the following months:

- October 2020 rent: \$350.00
- November 2020 rent: \$500.00
- Total rental arrears: **\$850.00**

Settlement Agreement

The possibility of a settlement was raised, pursuant to Section 63(1) of the *Act*, which

allows an Arbitrator to assist the parties to settle the dispute. I explained to the parties that settlement discussions are voluntary, that if they chose not to discuss settlement I would make a final and binding Decision on the matter, and that if they chose to discuss settlement and did not come to an agreement, that I would make a final and binding Decision on the matter.

I advised the parties that if they did come to an agreement, I would write out this agreement in my written Decision and make any necessary Orders. I also explained that the written Decision would become a final and legally binding agreement. The parties did not have questions about discussing a settlement when asked.

The parties engaged in a discussion on what would be an amenable settlement for both parties. The Landlord and the Tenant agreed as follows:

1. The 10 Day Notice to End Tenancy for Unpaid Rent of December 11, 2020 is cancelled and of no force or effect.
2. Rent must continue to be paid in full as per the terms of the tenancy agreement.
3. In addition, the Tenants must pay **\$200.00** on April 1, 2021.
4. The Tenants must pay **\$200.00** on May 1, 2021.
5. The Tenants must pay **\$200.00** on June 1, 2021.
6. The Tenants must pay **\$250.00** on July 1, 2021.
7. If conditions 2, 3, 4, 5, and/or 6 are breached, the Landlord is granted an Order of Possession that will be effective **two days** after service of the Order on the Tenants. (As a note, should the Tenants comply with these conditions in their entirety, this Order of Possession will not be enforceable for any rental arrears that may occur on or after August 1, 2021.)

This settlement agreement was reached in accordance with Section 63 of the *Act*. The parties confirmed at the end of the hearing that this agreement was made on a voluntary basis and that they understood the binding nature of this full and final settlement of these matters.

Conclusion

The parties reached a full and final settlement agreement in resolution of this dispute. I have recorded the terms of settlement in this Decision and in recognition of the settlement agreement, based on the above, I hereby Order that the 10 Day Notice to End Tenancy for Unpaid Rent of December 11, 2020 to be cancelled and of no force or effect.

In addition, in support of the settlement described above, and with agreement of both parties, the Landlord is granted a conditional Order of Possession effective **two days** after service of the Order on the Tenants if the Tenants fail to comply with conditions 2, 3, 4, 5, and/or 6 of this settlement agreement. Should the Tenants fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: March 11, 2021

Residential Tenancy Branch