



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FFL; CNR, MNDCT, RR, RP, LRE, OLC; RR, LRE, RP, OLC

Introduction

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

- an order of possession for cause, pursuant to section 55; and
- authorization to recover the filing fee for his application, pursuant to section 72.

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

- cancellation of the landlord's Ten Day Notice to End Tenancy for Unpaid Rent or Utilities ("10 Day Notice"), pursuant to section 46;
- a monetary order for compensation of \$15,000.00 under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement, pursuant to section 67;
- an order allowing the tenant to reduce rent of \$5,000.00 for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order requiring the landlord to complete repairs to the rental unit, pursuant to section 33;
- an order restricting the landlord's right to enter the rental unit, pursuant to section 70; and
- an order requiring the landlord to comply with the *Act*, *Regulation* or tenancy agreement, pursuant to section 62.

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

- an order allowing the tenant to reduce rent of \$1,680.00 for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order restricting the landlord's right to enter the rental unit, pursuant to section 70;
- an order requiring the landlord to complete repairs to the rental unit, pursuant to section 33; and

- an order requiring the landlord to comply with the *Act*, *Regulation* or tenancy agreement, pursuant to section 62.

The landlord, the landlord's agent, the landlord's lawyer, the tenant, and the tenant's lawyer 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 111 minutes.

The landlord confirmed that his lawyer had permission to speak on his behalf. The landlord confirmed that his agent, who is his wife, was permitted to be present at this hearing. The tenant confirmed that his lawyer had permission to speak on his behalf.

The tenant's lawyer 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 tenant stated that he served his written evidence package to the landlord's agent. The landlord's lawyer stated that neither he, nor the landlord, received the tenant's evidence. As both parties settled their applications and I was not required to make a decision on the merits or to consider the tenant's evidence, I decline to make findings regarding service of the tenant's evidence to the landlord.

Both parties confirmed that they wanted to proceed with the hearing and settle all three applications. Based on the consent of both parties, I proceeded with the hearing and recorded the settlement between both parties.

During the hearing, both parties confirmed that there is a "future hearing" scheduled for the tenant's two applications on March 4, 2021 at 11:00 a.m. The landlord's lawyer confirmed that the landlord received the tenant's two applications. Both parties agreed to settle the tenant's two applications at this hearing and confirmed that they would not attend the future hearing because it is cancelled by way of this agreement.

Pursuant to section 64(3)(c) of the *Act*, I amend the landlord's application to include the middle initial of the tenant's name, as the tenant requested it during the hearing. The landlord's lawyer consented to this amendment during the hearing.

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 July 31, 2021, by which time the tenant and any other occupants will have vacated the rental unit;
2. The landlord agreed that all of the landlord's notices to end tenancy, issued to the tenant, to date, are cancelled and of no force or effect;
3. The tenant agreed to pay the landlord \$1,603.50, by 12:30 p.m. on March 3, 2021 at the rental unit, by way of a cheque payable on March 3, 2021, which the landlord agreed to accept towards rent of \$1,100.00, repayment plan rent of \$375.00, and utilities of \$128.50, for March 2021;
4. Both parties agreed to meet at the rental unit in order to complete a condition inspection report at 12:30 p.m. on March 3, 2021;
5. The tenant agreed to pay the landlord rent of \$1,100.00 by the first day of each month for the remainder of this tenancy;
6. The tenant agreed to pay the landlord repayment plan rent of \$375.00 by the first day of each month for the remainder of this tenancy;
7. The tenant agreed to pay the landlord 1/3 of total utilities by the first day of each month for the remainder of this tenancy;
8. The landlord agreed to pay the tenant \$5,000.00 on the date that the tenant vacates the rental unit only after a move-out condition inspection is completed first;
9. The landlord agreed to bear the cost of the \$100.00 filing fee paid for his application;
10. The landlord agreed that this settlement agreement constitutes a final and binding resolution of his application at this hearing;
11. The tenant agreed that this settlement agreement constitutes a final and binding resolution of his two applications scheduled for a future hearing at 11:00 a.m. on March 4, 2021, arising out of this tenancy, the file numbers of which appear on the front page of this decision;

- a. Both parties confirmed that they would not be attending the future hearing which is hereby cancelled by way of this settlement.

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 at the hearing that they understood and agreed that the above terms are legal, final, binding and enforceable, which settle all aspects of this dispute.

During the hearing, I repeatedly confirmed the above settlement terms with the tenant. The tenant repeatedly affirmed, under oath, that he was agreeable to the above settlement terms and that he understood they were legal, final, binding and enforceable. The tenant repeatedly affirmed, under oath, that he agreed and understood that he could not change the settlement terms after the hearing was over and that he knew it was a full and final settlement of all three applications, as noted above. The tenant repeatedly affirmed, under oath, that he was making this agreement with the assistance and advice of his lawyer, who assisted him throughout this hearing. The tenant was given ample time to discuss and review the terms of this settlement with his lawyer privately throughout this hearing and to ask questions about the above terms. This hearing lasted 111 minutes in order to facilitate the tenant's repeated questions and comments.

The terms and consequences of the above settlement were reviewed in detail, with both parties during the lengthy 111-minute hearing. Both parties had opportunities to ask questions and to negotiate and discuss the settlement terms in detail. Both parties affirmed under oath that they fully understood the above settlement terms and were agreeable to them. Both parties had their lawyers assist them with the negotiation, discussion, questions, and settlement of the above terms.

Conclusion

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

All of the landlord's notices to end tenancy, issued to the tenant to date, are cancelled and of no force or effect.

The tenant's two applications, scheduled for a future hearing on March 4, 2021 at 11:00 a.m., are settled by way of this agreement and neither party is required to attend the future hearing.

To give effect to the settlement reached between the parties and as discussed with them during the hearing, I issue the attached Order of Possession effective at 1:00 p.m, on July 31, 2021, to be used by the landlord **only** if the tenant does not abide by condition #1 of the above settlement. The tenant must be served with this Order as soon as possible after he does not comply with the above agreement. 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 \$1,603.50. 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.

In order to implement the above settlement reached between the parties, I issue a monetary Order in the tenant's favour in the amount of \$5,000.00. I deliver this Order to the tenant in support of the above agreement for use only in the event that the landlord does not abide by condition #8 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 landlord must bear the cost of the \$100.00 filing fee paid for his application.

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 02, 2021

Residential Tenancy Branch