



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FFT

Introduction

On January 5, 2021, the Tenants made an Application for Dispute Resolution seeking to cancel a One Month Notice to End Tenancy for Cause (the “Notice”) pursuant to Section 47 of the *Residential Tenancy Act* (the “Act”) and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

Both Tenants attended the hearing, and the Landlord attended the hearing as well. All parties in attendance provided a solemn affirmation.

Service of the Notice of Hearing and evidence packages were discussed, and I was satisfied that the Notice of Hearing package was duly served on the Landlord and that the evidence packages were duly served on each party.

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 October 1, 2020, that rent was established at an amount of \$3,800.00 per month, and that it was due on the first day of each month. A security deposit of \$1,900.00 was also paid. A signed copy of the tenancy agreement was submitted as documentary evidence.

Submissions were made with respect to the reasons the Notice to end tenancy was served. Significant time was spent attempting to elicit submissions from the Tenants regarding their responses to the Landlord's submissions about why the Notice was served. Regardless, the parties then engaged in settlement discussions.

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 Tenants agreed as follows:

1. The One Month Notice to End Tenancy for Cause of December 31, 2020 is cancelled and of no force or effect.
2. The Tenants remain in possession of the rental unit but must give up vacant possession of the rental unit on **May 31, 2021 at 1:00 PM**.
3. Rent must continue to be paid in accordance with the terms of the tenancy agreement.
4. If condition 2 is breached, the Landlord is granted an Order of Possession that will be effective after service of the Order on the Tenants.

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 with the settlement agreement, based on the above, I hereby Order that the One Month Notice to End Tenancy for Cause of December 31, 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 after service of the Order on the Tenants if the Tenants fail to comply with condition 2 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 30, 2021

Residential Tenancy Branch