



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding OKANAGAN METIS AND ABORIGINAL HOUSING
SOCIETY and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, DRI

Introduction

On January 11, 2021, the Tenant 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 dispute a rent increase pursuant to Section 41 of the *Act*.

The Tenant attended the hearing, and S.W. attended the hearing as an agent for the Landlord. 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. As well, I was satisfied 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

- Is the Tenant entitled to have the Notice cancelled?
- If the Tenant is unsuccessful in cancelling the Notice, is the Landlord entitled to an Order of Possession?
- Was an illegal rent increase implemented?

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 May 1, 2014, that subsidized rent was established at an amount of \$358.00 per month, and that it was due on the first day of each month. A security deposit of \$400.00 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. 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 Tenant agreed as follows:

1. The 10 Day Notice to End Tenancy for Unpaid Rent of January 6, 2021 is cancelled and of no force or effect.
2. The Tenant remains in possession of the rental unit but must give up vacant possession of the rental unit on **June 30, 2021 at 1:00 PM**.
3. If condition 2 is breached, the Landlord is granted an Order of Possession that will be effective after service of the Order on the Tenant.
4. Rent in the amount of \$358.00 must continue to be paid in accordance with the terms of the tenancy agreement.
5. Any potential rent owing on account of the Tenant's subsidy allegedly ending is not applicable or owed. The Tenant's subsidized rent is established at \$358.00 per month.
6. The Landlord may retain the Tenant's security deposit of \$400.00.

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 10 Day Notice to End Tenancy for Unpaid Rent of January 6, 2021 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 Tenant if the Tenant fails to comply with condition 2 of this settlement 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.

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: April 9, 2021

Residential Tenancy Branch