



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, FFT

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act") to cancel a Two Month Notice to End Tenancy for Landlord's Use dated January 28, 2021 ("Two Month Notice"); and to recover the \$100.00 cost of their Application filing fee.

The Tenants, and two agents for the corporate Landlord, A.C. and A.C. ("Agents"), appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about the hearing process. During the hearing the Tenants and the Agents were given the opportunity to provide their evidence orally and to respond to the testimony of the other Party. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

The Agent said that the Tenants did not send him a Notice of Hearing for this proceeding, but merely sent him a copy of the Two Month Notice. The Tenant, L.H., said that he remembered sending the hearing documents that he received from the RTB to the Agent. The Agent's version of events was backed up by our record of his having called the RTB office on February 8, 2021, to ask what he was supposed to do about the Tenants' registered mail package. I advised the Parties that I felt that the Agent's version of events is supported more by external evidence than is the Tenant's memory of what he sent to the Landlord. I advised the Parties that I determined that the Landlord had not been properly served with the Application and Notice of Hearing by the Tenants. However, the Parties arrived at a Settlement Agreement in the hearing, as set out below; therefore, I did not dismiss the Tenants' Application on this basis.

Preliminary and Procedural Matters

The Tenants provided the Parties' email addresses in the Application and they

confirmed these addresses in the hearing, although, the Tenant modified his email address in the hearing. They also confirmed their understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

At the outset of the hearing, I asked the Agent for the Landlord's name in this matter, as the Landlord identified on the Application was different than that in the One Month Notice. The Agent advised me that his numbered company is the Landlord, so I have amended the Respondent's name in the Application, pursuant to section 64(3)(c) and Rule 4.2.

Settlement Agreement

During the hearing, the Parties agreed to settle these matters on the following conditions:

1. The Parties agree to mutually withdraw the Two Month Notice dated January 28, 2021.
2. The Tenants agree to withdraw their Application in full, as part of this mutually agreed settlement.
3. The Parties agree that the Tenants will vacate the residential property by May 31, 2021 at noon.
4. The Parties agree that they entered into this agreement completely voluntarily.
5. The Parties agree that this tenancy will end on the terms set out in this Settlement Agreement **on the condition** that the Tenants adhere to the move-out schedule as stipulated above. The Landlord is granted an Order of Possession effective two days after service of this Order on the Tenants, which is to be enforced only if the Tenants do not adhere to the move-out schedule stipulated above. This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court. If the Tenants comply with the above move-out schedule, this Order will become void and unenforceable and the tenancy will end as stipulated in this Settlement Agreement.

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 the Parties understood the binding nature of this full and final settlement of these matters.

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.

Conclusion

This matter was resolved by way of a mutually settled agreement. In recognition of this Settlement Agreement and based on the above, I hereby Order that the Two Month Notice to End Tenancy for Landlord's Use dated January 28, 2021 is cancelled and is of no force or effect.

In addition, and in support of the Settlement described above, and with agreement of both Parties, I grant the Landlord a conditional **Order of Possession**, to serve and enforce upon the Tenants, if necessary, **effective two days after service of the Order** on the Tenants. This Order must be served on the Tenants, if the Tenants fail to adhere to the terms of the Settlement Agreement.

I Order the Parties to comply with their Settlement Agreement described above.

This Decision is final and binding on the parties, unless otherwise provided under the Act, and 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 30, 2021

Residential Tenancy Branch