



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BLUE MOUNTAIN SENIORS HOUSING
SOCIETY and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, FFT

Introduction

On February 15, 2021, the Tenant 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*.

The Tenant attended the hearing with D.P. attending as his advocate. L.P. attended the hearing as an agent for the Landlord. At the outset of the hearing, I explained to the parties that as the hearing was a teleconference, none of the parties could see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited and they were reminded to refrain from doing so. All parties acknowledged these terms. As well, all parties in attendance provided a solemn affirmation.

The Tenant advised that he served the Notice of Hearing and evidence package to the Landlord on February 26, 2021 by registered mail and L.P. confirmed that the Landlord received this package. Based on this undisputed evidence, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Landlord was sufficiently served the Notice of Hearing and evidence package. As such, I have accepted all of the submitted evidence and I will consider it when rendering this Decision.

L.P. advised that the Tenant was served the Landlord’s evidence on March 10, 2021 by registered mail and the Tenant confirmed that this was received. As such, I have

accepted all of the submitted evidence and I will consider it when rendering 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 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?
- Is the Tenant 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 most current tenancy started on June 1, 2017, that rent was established at an amount of \$685.00 per month, and that it was due on the first day of each month. A security deposit of \$200.00 was also paid. A signed copy of the tenancy agreement was submitted as documentary evidence.

All parties also agreed that the Notice was served to the Tenant on February 8, 2021 by being posted to the door. The reason the Notice was served was due to a “Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.” The effective end date of the tenancy was noted as March 31, 2021.

Settlement Agreement

The possibility of a settlement was raised, pursuant to Section 56(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 One Month Notice to End Tenancy for Cause of February 8, 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. 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 Tenant.

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 February 8, 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: May 18, 2021

Residential Tenancy Branch