



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ELEVATE PERFORMANCE REALTY &
MANAGEMENT and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

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

- cancellation of the landlord's One Month Notice to End Tenancy for Cause, dated February 23, 2021 ("1 Month Notice"), pursuant to section 47.

The landlord's agent ("landlord") and the tenant 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 19 minutes.

The landlord confirmed that she was the property manager for the landlord company named in this application and that she had permission to speak on its behalf. She said that the landlord company was authorized to represent the owner of the rental unit.

At the outset of the hearing, I informed both parties that they were not permitted to record the hearing, as per Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure*. During the hearing, the landlord and the tenant both affirmed under oath that they were not recording the hearing, and they would not record this hearing.

I explained the hearing and settlement processes to both parties. Both parties had an opportunity to ask questions. Neither party made any adjournment or accommodation requests. Both parties confirmed that they were ready to proceed with the hearing, they did not want me to make a decision, and they wanted to settle this application.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing package and the tenant confirmed receipt of the landlord's evidence. In accordance with sections 88, 89 and 90 of the *Act*, I find that the landlord was duly served with the tenant's application and the tenant was duly served with the landlord's evidence.

Preliminary Issue – Inappropriate Behaviour by the Tenant during the Hearing

Rule 6.10 of the RTB *Rules of Procedure* states the following:

6.10 Interruptions and inappropriate behaviour at the dispute resolution hearing
Disrupting the hearing will not be permitted. The arbitrator may give directions to any person in attendance at a hearing who is rude or hostile or acts inappropriately. A person who does not comply with the arbitrator's direction may be excluded from the dispute resolution hearing and the arbitrator may proceed in the absence of that excluded party.

During the hearing, the tenant yelled at me, interrupted me, called me "snarky," and complained that I was not "helping" her get a settlement with the landlord. I notified the tenant that a settlement is reached after a voluntary discussion between both parties. I cautioned the tenant about calling me names. I notified her that she could be excluded from the hearing if she continued with this inappropriate behaviour. However, I allowed the tenant to attend the full hearing, despite her inappropriate behaviour.

I caution the tenant to not engage in the same inappropriate behaviour at any future hearings at the RTB, as this behaviour will not be tolerated, and she may be excluded from future hearings. In that case, a decision will be made in the absence of the tenant.

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 August 31, 2021, by which time the tenant and any other occupants will have vacated the rental unit;
2. The landlord agreed that the landlord's 1 Month Notice, dated February 23, 2021, was cancelled and of no force or effect;
3. The tenant agreed that this settlement agreement constitutes a final and binding resolution of her application at this hearing.

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 she was agreeable to the above settlement terms and that she understood they were legal, final, binding and enforceable. The tenant affirmed, under oath, that she agreed and understood that she could not change the settlement terms after the hearing was over and that she knew it was a full and final settlement of this application. The tenant was given ample time to discuss and review the terms of this settlement throughout this hearing and to ask questions about the above terms. This hearing lasted 19 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 19-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.

Conclusion

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 August 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.

The landlord's 1 Month Notice, dated February 23, 2021, is cancelled and of no force or effect.

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

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 31, 2021

Residential Tenancy Branch