



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL

Introduction

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

- cancellation of the landlord's Two Month Notice to End Tenancy for Landlord's Use of Property, dated January 23, 2021 ("2 Month Notice"), pursuant to section 49.

The landlord, the landlord's agent, 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 62 minutes.

The landlord did not testify at this hearing. The landlord's agent confirmed that she had permission to represent the landlord, who is her father and the owner of the rental unit, at this hearing. The tenant stated that her friend was observing the hearing, but he did not testify.

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's agent and the tenant both affirmed under oath that they would not record the hearing.

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

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

The landlord's agent stated that she served the landlord's evidence to the tenant on April 1, 7, and 30 and May 2, 7, and 10. She said that she posted it to the tenant's door. The tenant stated that she did not receive it, but the landlord piled a lot of documents in front of her door, blocking her from receiving her mail. As both parties settled this application and I was not required to make a decision on the merits, I do not find it necessary to record service findings of the landlord's evidence to the tenant.

The tenant confirmed receipt of the landlord's 2 Month Notice. The landlord provided a copy of the notice. The effective move-out date on the notice is March 31, 2021. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was duly served with the landlord's 2 Month Notice.

Pursuant to section 64(3)(c) of the *Act*, I amend the tenant's application to correct the spelling of the landlord's first name. The landlord's agent confirmed the correct spelling during the hearing. Both parties consented to this amendment during the hearing.

During the hearing, both parties confirmed that the former landlord returned the tenant's security deposit to 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 June 30, 2021, by which time the tenant and any other occupants will have vacated the rental unit;
2. Both parties agreed that this tenancy is ending pursuant to the landlord's 2 Month Notice, dated January 23, 2021;

3. Both parties agreed that the tenant is not required to pay any rent to the landlord for March 2021, since the tenant is entitled to one-month free rent compensation pursuant to the 2 Month Notice and section 51 of the *Act*, which has already been enforced by both parties;
4. The tenant agreed to pay rent to the landlord using the correct legal name of the landlord, which was confirmed by both parties during this hearing;
5. The landlord agreed to search for and return the tenant's money order of \$850.00 for May 2021 rent to the tenant, by May 11, 2021;
6. Upon receipt of the tenant's May 2021 money order of \$850.00 from the landlord, the tenant agreed to pay May 2021 rent of \$850.00 to the landlord using the landlord's correct legal name, by May 12, 2021;
7. The tenant agreed to pay rent of \$850.00 for June 2021 to the landlord using the landlord's correct legal name, by June 1, 2021;
8. The tenant agreed to pay a security deposit of \$425.00 to the landlord using the landlord's correct legal name, by May 28, 2021;
9. Both parties agreed to meet at 3:00 p.m. on May 11, 2021 at the rental unit, to complete an inspection for damages and fill out a report;
10. 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 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 both parties. Both parties repeatedly affirmed, under oath, that they were agreeable to the above settlement terms and that they understood they were legal, final, binding and enforceable. Both parties repeatedly affirmed, under oath, that they agreed and understood that they could not change the settlement terms after the hearing was over and that they knew it was a full and final settlement of this application.

The terms and consequences of the above settlement were reviewed in detail, with both parties during the lengthy 62-minute hearing. Both parties had opportunities to ask questions and to negotiate and discuss the settlement terms in detail. The tenant was discussing the settlement terms with her friend, who was observing the hearing. The landlord's agent had an opportunity to discuss the settlement terms with the landlord. The hearing was lengthy because both parties repeatedly interrupted each other and

me and argued with each other. I notified both parties that I had to mute their telephone lines at different times during the hearing, in order to be able to speak and to allow each party to speak, without interruption.

Conclusion

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

To give effect to the settlement reached between the parties and as advised to both parties during the hearing, I issue the attached Order of Possession to be used by the landlord **only** if the tenant and any other occupants fail to vacate the rental premises by 1:00 p.m. on June 30, 2021. The tenant must be served with this Order in the event that the tenant and any other occupants fail to vacate the rental premises by 1:00 p.m. on June 30, 2021. 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.

In order to implement the above settlement reached between the parties, I issue a monetary Order in the landlord's favour in the amount of \$425.00. I deliver this Order to the landlord in support of the above agreement for use **only** in the event that the tenant fails to pay the landlord \$425.00 as per condition #8 of the above agreement. The tenant must be served with a copy of this Order. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

As noted to both parties during the hearing, the landlord is at liberty to apply for monetary orders if the tenant fails to pay rent as per conditions #6 and/or #7 of the above agreement.

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 11, 2021

Residential Tenancy Branch